

103d Congress  
2d Session

COMMITTEE PRINT



**INTERNATIONAL NARCOTICS CONTROL  
AND UNITED STATES FOREIGN POLICY:  
A COMPILATION OF LAWS, TREATIES,  
EXECUTIVE DOCUMENTS,  
AND RELATED MATERIALS**

R E P O R T

PREPARED FOR THE

COMMITTEE ON FOREIGN AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES

BY THE

CONGRESSIONAL RESEARCH SERVICE  
LIBRARY OF CONGRESS



DECEMBER 1994

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## FOREWORD

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
*Washington, DC, December 4, 1994.*

This compilation of narcotics control materials assembles the major provisions in current U.S. laws relating to the role of narcotics control in U.S. foreign policy and foreign assistance, domestic laws governing narcotics violations, international agreements and related materials designed to promote narcotics control.

It should provide a useful guide for Members of the House of Representatives, particularly those on the Committee on Foreign Affairs, as well as for the public.

We wish to express our appreciation to Raphael Perl and Ken Nakamura of the Foreign Affairs and National Defense Division, Congressional Research Service of the Library of Congress, who, with support staff assistance, notably that of Terrence Lisbeth, prepared this compilation.

LEE H. HAMILTON,  
*Chairman.*

## LETTER OF SUBMITTAL

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CONGRESSIONAL RESEARCH SERVICE,  
THE LIBRARY OF CONGRESS,  
Washington, DC, December 1, 1994.

Hon. LEE H. HAMILTON,  
*Chairman, Committee on Foreign Affairs, House of Representatives,*  
*Washington, DC.*

DEAR MR. CHAIRMAN: In response to the committee's request, I am submitting a report relating to the problem of illicit drug production and traffic.

The compilation includes Federal laws, treaties, executive documents, and related materials of interest to the committee. It was prepared and coordinated in the Foreign Affairs and National Defense Division by Raphael Perl, with assistance from Ken Nakamura. Division support staff services, particularly those of Terrence Lisbeth, played an important role in the production process.

We hope the compilation will serve the needs of your committee as well as those of other committees and Members of Congress concerned with control of the traffic of narcotics and other dangerous drugs.

Sincerely,

DANIEL P. MULHOLLAN, *Director.*

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## I. BASIC DOCUMENTS

### A. National Narcotics Leadership Act of 1988

Title I, Subtitle A of Public Law 100-690 [H.R. 5210], 102 Stat. 4181 (21 U.S.C. 1501-1509), approved November 18, 1988, as amended

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The National Narcotics Leadership Act of 1988, P.L. 100-690, Subtitle A, establishes the Office of National Drug Control Policies, its mission, powers, and responsibilities. Amendments to the act empower the Director to temporarily detail personnel from and to other agencies at will in order to implement the National Drug Control Strategy. The Office is authorized to employ up to 75 and such additional personnel as necessary to carry out its functions.

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## TITLE I—COORDINATION OF NATIONAL DRUG POLICY

### SUBTITLE A—NATIONAL DRUG CONTROL PROGRAM

#### SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "National Narcotics Leadership Act of 1988".

#### SEC. 1002. ESTABLISHMENT OF OFFICE.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President the "Office of National Drug Control Policy".

(b) DIRECTOR AND DEPUTY DIRECTORS.—(1) There shall be at the head of the Office of National Drug Control Policy a Director of National Drug Control Policy.

(2) There shall be in the Office of National Drug Control Policy a Deputy Director for Demand Reduction and a Deputy Director for Supply Reduction.

(3) The Deputy Director for Demand Reduction and the Deputy Director for Supply Reduction shall assist the Director in carrying out the responsibilities of the Director under this Act.

(c) BUREAU OF STATE AND LOCAL AFFAIRS.—(1) There is established in the Office of National Drug Control Policy a Bureau of State and Local Affairs.

(2) There shall be at the head of such bureau an Associate Director for National Drug Control Policy.

(d) ACCESS BY CONGRESS.—The location of the Office of National Drug Control Policy in the Executive Office of the President shall not be construed as affecting access by the Congress or committees of either House to—

(1) information, documents, and studies in the possession of, or conducted by or at the direction of the Director; or

(2) personnel of the Office of National Drug Control Policy.

**Sec. 1303. APPOINTMENT AND DUTIES OF DIRECTOR, DEPUTY DIRECTORS, AND ASSOCIATE DIRECTOR.**

(a) **APPOINTMENT.**—(1) The Director, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Associate Director for National Drug Control Policy shall each be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Associate Director for National Drug Control Policy shall each serve at the pleasure of the President. No person shall serve as Director, a Deputy Director, or Associate Director while serving in any other position in the Federal Government.

[(3), (4) Omitted—amendments to other acts.]

(b) **RESPONSIBILITIES.**—The Director shall—

(1) establish policies, objectives, and priorities for the National Drug Control Program;

(2) annually promulgate the National Drug Control Strategy in accordance with section 1504 of this title;

(3) coordinate and oversee the implementation by National Drug Control Program agencies of the policies, objectives, and priorities established under paragraph (1) and the fulfillment of the responsibilities of such agencies under the National Drug Control Strategy;

(4) make such recommendations to the President as the Director determines are appropriate regarding—

(A) changes in the organization, management, and budgets of Federal departments and agencies engaged in drug enforcement; and

(B) the allocation of personnel to and within such departments and agencies; to implement the policies, priorities, and objectives established under paragraph (1) and the National Drug Control Strategy;

(5) consult with and assist State and local governments with respect to their relations with the National Drug Control Program agencies;

(6) appear before duly constituted committees and subcommittees of the House of Representatives and of the Senate to represent the drug policies of the executive branch;

(7) notify any National Drug Control Program agency if its policies are not in compliance with the responsibilities of such agency under the National Drug Control Strategy and transmit a copy of each such notification to the President; and

(8) provide, by July 1 of each year, budget recommendations to the heads of departments and agencies with responsibilities under the National Drug Control Program, which recommendations shall apply to the second following fiscal year and address funding priorities developed in the annual National Drug Control Strategy.

(c) **NATIONAL DRUG CONTROL PROGRAM BUDGET.**—(1) The Director shall develop for each fiscal year, with the advice of the pro-

gram managers of departments and agencies with responsibilities under the National Drug Control Program, a consolidated National Drug Control Program budget proposal to implement the National Drug Control Strategy, and shall transmit such budget proposal to the President and to the Congress.

(2) Each Federal Government program manager, agency head, and department head with responsibilities under the National Drug Control Strategy shall transmit the drug control budget request of the program, agency, or department to the Director at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31.

(3) The Director shall—

(A) review each drug control budget request transmitted to the Director under paragraph (2);

(B) certify in writing as to the adequacy of such request in whole or in part to implement the objectives of the National Drug Control Strategy for the year for which the request is submitted and with respect that is not certified as adequate to implement the objectives of the National Drug Control Strategy, include in the certification an initiative or funding level that would make the request adequate; and

(C) notify the program manager, agency head, or department head, as applicable, regarding the Director's certification under subparagraph (B).

(4) The Director shall maintain records regarding certifications under paragraph (3)(B).

(5) The Director shall request the head of a department or agency to include in the department's or agency's budget submission to the Office of Management and Budget funding requests for specific initiatives that are consistent with the President's priorities for the National Drug Control Strategy and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.

(6)(A) No National Drug Control Program agency shall submit to the Congress a reprogramming or transfer request with respect to any amount of appropriated funds greater than \$5,000,000 which is included in the National Drug Control Program budget unless such request has been approved by the Director.

(B) The head of any National Drug Control Program agency may appeal to the President any disapproval by the Director of a reprogramming or transfer request.

(7) The Director shall report to the Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated funds for National Drug Control Program activities.

(8) The head of each National Drug Control Program agency shall ensure timely development and submission to the Director of drug control budget requests transmitted pursuant to subsection (c)(2) of this section, in such format as may be designated by the Director with the concurrence of the Director of the Office of Management and Budget.

(d) **POWERS OF DIRECTOR.**—In carrying out the responsibilities established under subsection (b) of this section, the Director may—



(1) select, appoint, employ, and fix compensation of up to 75 and such additional officers and employees as may be necessary to carry out the functions of the Office of National Drug Control Policy under this title;

(2) request the head of a department or agency or program to place department, agency, or program personnel who are engaged in drug control activities on temporary detail to another department or agency in order to implement the National Drug Control Strategy, and the head of the department or agency shall comply with such a request;<sup>1</sup>

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5 relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5;

(5) accept and use donations of property from Federal, State, and local government agencies;

(6) use the mails in the same manner as any other department or agency of the executive branch;

(7) monitor implementation of the National Drug Control Program, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations;

(8) except to the extent that the Director's authority under this paragraph is limited in an annual appropriations Act, transfer funds appropriated to a National Drug Control Program agency account to a different National Drug Control Program agency account in an amount that does not exceed 2 percent of the amount appropriated to either account, upon advance approval of the Committees on Appropriations of each House of Congress; and

(9) in order to ensure compliance with the National Drug Control Program, issue to the head of a National Drug Control Program agency a funds control notice described in subsection (f).

(e) PERSONNEL DETAILED TO THE OFFICE.—(1) Notwithstanding any provision of chapter 43 of title 5, the Director shall perform the evaluation of the performance of any employee detailed to the Office of National Drug Control Policy for purposes of the applicable performance appraisal system established under such chapter for any rating period, or part thereof, that such employee is detailed to such office.

(2)(A) Notwithstanding any other provision of law, the Director may provide periodic bonus payments to any employee detailed to the Office of National Drug Control Policy.

<sup>1</sup> Contrast this text with section 1011(c) of the National Defense Authorization Act, FY 1995, p. 221, which prohibits such detailing of personnel unless such detail is in the national security interest of the United States.

(B) An amount paid under this paragraph to an employee for any period shall not be greater than 20 percent of the basic pay paid or payable to such employee for such period.

(C) Any payment under this paragraph to an employee shall be in addition to the basic pay of such employee.

(D) The aggregate amount paid during any fiscal year to an employee detailed to the Office of National Drug Control Policy as basic pay, awards, bonuses, and other compensation shall not exceed the annual rate payable at the end of such fiscal year for positions at level III of the Executive Schedule.

(f) FUNDS CONTROL NOTICES.—(1) A funds control notice may direct that all or part of an amount appropriated to the National Drug Control Program agency account be obligated by—

(A) months, fiscal year quarters, or other time periods; and

(B) activities, functions, projects, or object classes.

(2) An officer or employee of a National Drug Control Program agency shall not make or authorize an expenditure or obligation contrary to a funds control notice issued by the Director.

(3) In the case of a violation of paragraph (2) by an officer or employee of a National Drug Control Program agency, the head of the agency, upon the request of an in consultation with the Director, may subject the officer or employee to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office.

(f)<sup>2</sup> PROHIBITION ON POLITICAL CAMPAIGNING.—A Federal officer in the Office of National Drug Control Policy who is appointed by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such an official is not prohibited by this subsection from making contributions to individual candidates.

#### SEC. 1004. COORDINATION WITH EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES.

(a) Access to information.—(1) Upon request of the Director, and subject to laws governing disclosure of information, the head of each National Drug Control Program agency shall provide to the Director such information as may be required for drug control.

(2)(A) The authorities conferred on the Office of National Drug Control Policy and its Director by this Act shall be exercised in a manner consistent with provisions of the National Security Act of 1947. The Director of Central Intelligence shall prescribe such regulations as may be necessary to protect information provided pursuant to this Act regarding intelligence sources and methods.

(B) The Director of Central Intelligence shall, to the fullest extent possible in accordance with subparagraph (A), render full assistance and support to the Office of National Drug Control Policy and its Director.

(b) CERTIFICATION OF POLICY CHANGES BY DIRECTOR.—(1) The head of a National Drug Control Program agency shall, unless exigent circumstances require otherwise, notify the Director in writing regarding any proposed change in policies relating to the activities of such department or agency under the National Drug Control

<sup>2</sup>This subsection, added by section 90202 of the Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-322, apparently should be labeled "(g)".

Program prior to implementation of such change. The Director shall promptly review such proposed change and certify to the department or agency head in writing whether such change is consistent with the National Drug Control Strategy.

(2) If prior notice of a proposed change under paragraph (1) is not possible, the department or agency head shall notify the Director as soon as practicable. The Director shall review such change and certify to the department or agency head in writing whether such change is consistent with the National Drug Control Program.

(c) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

**SEC. 1005. DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.**

(a) DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY.—(1) Not later than 180 days after the first Director is confirmed by the Senate, and not later than February 1 of each year thereafter, the President shall submit to the Congress a National Drug Control Strategy. Any part of such strategy that involves information properly classified under criteria established by an Executive order shall be presented to the Congress separately.

(2) The National Drug Control Strategy submitted under paragraph (1) shall—

(A) include comprehensive, research-based, long-range goals for reducing drug abuse and the consequence of drug abuse in the United States;

(B) include short-term measurable objectives which the Director determines may be realistically achieved in the 2-year period beginning on the date of the submission of the strategy;

(C) describe the balance between resources devoted to supply reduction and demand reduction; and

(D) review State and local drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government.

(3)(A) In developing the National Drug Control Strategy, the Director shall consult with—

(i) the heads of the National Drug Control Program agencies;

(ii) the Congress;

(iii) State and local officials;

(iv) private citizens with experience and expertise in demand reduction; and

(v) private citizens with experience and expertise in supply reduction.

(B) At the time the President submits the National Drug Control Strategy to the Congress, the Director shall transmit a report to the Congress indicating the persons consulted under this paragraph.

(4) The Director shall include with each National Drug Control Strategy an evaluation of the effectiveness of Federal drug control during the preceding year. The evaluation shall include an assessment of Federal drug control efforts, including—

(A) assessment of the reduction of drug use, including estimates of drug prevalence and frequency of use as measured by

national, State, and local surveys of illicit drug use and by other special studies of—

(i) high-risk populations, including school drop-outs, the homeless and transient, arrestees, parolees, and probationers, and juvenile delinquents; and

(ii) drug use in the workplace and the productivity lost by such use;

(B) assessment of the reduction of drug availability, as measured by—

(i) the quantities of cocaine, heroin, and marijuana available for consumption in the United States;

(ii) the amount of cocaine and heroin entering the United States;

(iii) the number of hectares of poppy and coca cultivated and destroyed;

(iv) the number of metric tons of heroin and cocaine seized;

(v) the number of cocaine processing labs destroyed;

(vi) changes in the price and purity of heroin and cocaine;

(vii) the amount and type of controlled substances diverted from legitimate retail and wholesale sources; and

(viii) the effectiveness of Federal technology programs at improving drug detection capabilities at United States ports of entry;

(C) assessment of the reduction of the consequences of drug use and availability, which shall include estimation of—

(i) burdens drug users placed on hospital emergency rooms in the United States, such as the quantity of drug-related services provided;

(ii) the annual national health care costs of drug use, including costs associated with people becoming infected with the human immunodeficiency virus and other communicable diseases as a result of drug use;

(iii) the extent of drug-related crime and criminal activity; and

(iv) the contribution of drugs to the underground economy, as measured by the retail value of drugs sold in the United States; and

(D) determination of the status of drug treatment in the United States, by assessing—

(i) public and private treatment capacity within each State, including information on the number of treatment slots available in relation to the number actually used, including data on intravenous drug users and pregnant women;

(ii) the extent, within each State, to which treatment is available, on demand, to intravenous drug users and pregnant women;

(iii) the number of drug users the Director estimates could benefit from treatment; and

(iv) the success of drug treatment programs, including an assessment of the effectiveness of the mechanisms in place federally, and within each State, to determine the

relative quality of substance abuse treatment programs, the qualifications of treatment personnel, and the mechanism by which patients are admitted to the most appropriate and cost effective treatment setting.

(5) The Director shall include with the National Drug Control Strategy required to be submitted not later than February 1, 1995, and with every second such strategy submitted thereafter—

(A) an assessment of the quality of current drug use measurement instruments and techniques to measure supply reduction and demand reduction activities;

(B) an assessment of the adequacy of the coverage of existing national drug use measurement instruments and techniques to measure the casual drug user population and groups at-risk for drug use;

(C) an assessment of the actions the Director shall take to correct any deficiencies and limitations identified pursuant to subparagraphs (A) and (B); and

(D) identification of the specific factors that restrict the availability of treatment services to those seeking it and proposed administrative or legislative remedies to make treatment available to those individuals.

(6) Federal agencies responsible for the collection or estimation of drug-related information required by the Director to enable the Director to satisfy the requirements of sections 4 and F

(7) With each National Drug Control Strategy, the Director shall report to the President and the Congress on the Director's assessment of drug use and availability in the United States, including an estimate of the effectiveness of interdiction, treatment, prevention, law enforcement, and international programs under the National Drug Control Strategy in effect in the preceding year in reducing drug use and availability.

(b) GOALS, OBJECTIVES, AND PRIORITIES. Each National Drug Control Strategy shall include—

(1) a complete list of goals, objectives, and priorities for supply reduction and for demand reduction;

(2) private sector initiatives and cooperative efforts between the Federal Government and State and local governments for drug control;

(3) 3-year projections for program and budget priorities and achievable projections for reductions of drug availability and usage;

(4) a complete assessment of how the budget proposal transmitted under section 1502(c) of this title is intended to implement the strategy and whether the funding levels contained in such proposal are sufficient to implement such strategy;

(5) designation of areas of the United States as high intensity drug trafficking areas in accordance with subsection (c) of this section; and

(6) a plan for improving the compatibility of automated information and communication systems to provide Federal agencies with timely and accurate information for purposes of this subtitle.

(c) HIGH INTENSITY DRUG TRAFFICKING AREAS.—(1) The Director, upon consultation with the Attorney General, heads of National

Drug Control Program agencies, and the Governors of the several States, may designate any specified area of the United States as a high intensity drug trafficking area. After making such a designation and in order to provide Federal assistance to the area so designated, the Director may—

(A) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the Secretary of the department or head of the agency which employs such personnel;

(B) take any other action authorized under section 1502 of this title to provide increased Federal assistance to such areas; and

(C) coordinate actions under this paragraph with State and local officials.

(2) When considering the designation of an area under this subsection as a high intensity drug trafficking area, the Director shall consider, along with other criteria the Director may deem appropriate—

(A) the extent to which the area is a center of illegal drug production, manufacturing, importation, or distribution;

(B) the extent to which State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

(C) the extent to which drug-related activities in the area are having a harmful impact in other areas of the country; and

(D) the extent to which a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

(3) Before March 1, 1991, the Director shall submit a report to the House of Representatives and to the Senate concerning the effectiveness of and need for the designation of areas under this subsection as high intensity drug trafficking areas, along with any comments or recommendations for legislation.

(d) LEAD AGENCIES.—(1) The President shall designate lead agencies with areas of principal responsibility for carrying out the National Drug Control Strategy.

(2) The Director shall require that any National Drug Control Program agency that conducts a major supply reduction activity which is in the area of principal responsibility of a lead agency designated under paragraph (1) shall—

(A) notify such lead agency in writing of the activity; and

(B) provide such notification prior to conducting such activity, unless exigent circumstances require otherwise.

(3) If a lead agency objects to the conduct of an activity described under paragraph (2), the lead agency and the agency planning to conduct such activity shall notify the Director in writing regarding such objection.

#### SEC. 1008. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER.

(a) ESTABLISHMENT.—There is established within the Office of National Drug Control Policy, the Counter-Drug Technology Assessment Center (hereinafter in this section referred to as the "Center"). The Center shall operate under the authority of the Director of National Drug Control Policy and shall serve as the

central counter-drug enforcement research and development organization of the United States Government.

(b) **CHIEF SCIENTIST.**—There shall be at the head of the Center the Chief Scientist of Counter-Drug Technology (hereinafter in this section referred to as the "Chief Scientist"). The chief Scientist shall be appointed by the Director of National Drug Control Policy from among individuals qualified and distinguished in the area of science, engineering, or technology.

(c) **ADDITIONAL RESPONSIBILITIES OF DIRECTOR.**—(1) The Director, acting through the Chief Scientist, shall—

(A) identify and define the short, medium, and long-term scientific and technological needs of Federal, State, and local drug enforcement agencies, including—

- (i) advanced surveillance, tracking, and radar imaging;
- (ii) electronic support measures;
- (iii) communications;
- (iv) data fusion, advanced computer systems and artificial intelligence; and
- (v) chemical, biological, radiological (including neutron, electron, and graviton) and other means of detection;

(B) in consultation with the National Institute on Drug Abuse, and through interagency agreements or grants, examine addition and rehabilitation research and or availability of drug treatment;

(C) make a priority ranking of such needs according to fiscal and technological feasibility, as part of a National Counter-Drug Enforcement Research and Development Strategy;

(D) oversee and coordinate counter-drug technology initiatives with related activities of other Federal civilian and military departments; and

(E) under the general authority of the Director of National Drug Control Policy, submit requests to Congress for the reprogramming or transfer of funds appropriated for counter-drug enforcement research and development.

(2) The authority granted to the Director under this section shall not extend to the award of contracts, management of individual projects, or other operational activities.

(d) **COUNTER-DRUG BUDGET SUBMISSION.**—Beginning with the budget submitted to Congress for fiscal year 1992 pursuant to section 1105 of title 31, the president shall submit a separate and detailed request relating to those Federal departments and agencies having responsibility for counter-drug enforcement research and development programs.

(e) **PERSONNEL.**—Subject to subsections (d) and (e) of section 1502 of this title, the Chief Scientist shall select and appoint a staff of not more than 10 employees with specialized experience in scientific, engineering and technical affairs.

(f) **ASSISTANCE AND SUPPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.**—The Director of the Advance Research Project Agency shall, to the fullest extent possible, render assistance and support to the Office of National Drug Control Policy and its Director.

**SEC. 1009. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.**

This subtitle and the amendments made by this subtitle, other than section 1007, are repealed on September 30, 1997.

**SEC. 1010. DEFINITIONS.**

As used in this subtitle—

(1) the term “drug” has the same meaning as the term “controlled substance” has in section 802(6) of this title;

(2) the term “drug control” means any activity conducted by a National Drug Control Program agency involving supply reduction or demand reduction;

(3) the term “supply reduction” means any enforcement activity of a program conducted by a National Drug Control Program agency that is intended to reduce the supply or use of drugs in the United States and abroad, including—

(A) international drug control;

(B) foreign and domestic drug enforcement intelligence;

(C) interdiction; and

(D) domestic drug law enforcement, including law enforcement directed at drug users;

(4) the term “demand reduction” means any activity conducted by a National Drug Control Program agency, other than an enforcement activity, that is intended to reduce the demand for drugs, including—

(A) drug abuse education;

(B) prevention;

(C) treatment;

(D) research; and

(E) rehabilitation;

(5) the term “National Drug Control Program” means programs, policies, and activities undertaken by National Drug Control Program agencies pursuant to the responsibilities of such agencies under the National Drug Control Strategy;

(6) the term “National Drug Control Program agency” means any department or agency and all dedicated units thereof, with responsibilities under the National Drug Control Strategy, as designated—

(A) jointly by the Director and the head of the department or agency; or

(B) by the President;

(7) the term “Director” means the Director of National Drug Control Policy; and

(8) the term “National Drug Control Strategy” means a strategy developed and submitted to the Congress under section 1504 of this title.

**SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.**

For the purposes of carrying out this subtitle, there are authorized to be appropriated \$3,500,000 for fiscal year 1989 and such sums as may be necessary for each of the 8 succeeding fiscal years, to remain available until expended.

\* \* \* \* \*



**SEC. 6073. ESTABLISHMENT OF SPECIAL FORFEITURE FUND.<sup>3</sup>**

(a) **IN GENERAL.**—There is established in the Treasury of the United States the Special Forfeiture Fund (hereafter referred to in this section as the "Fund") which shall be available to the Director of the National Drug Control Policy without fiscal year limitation in such amounts as may be specified in appropriations Acts.

(b) **DEPOSITS.**—There shall be deposited into the Fund the amounts specified by section 524(c)(9) of title 28, United States Code, and section 9307(g) of title 31, United States Code, and any earnings on the investments authorized by subsection (d).

(c) **SUPER SURPLUS.**—(1) Any unobligated balance up to \$20,000,000 remaining in the Fund on September 30 of a fiscal year shall be available to the Director, subject to paragraph (2), to transfer to, and for obligation and expenditure in connection with drug control activities of, any Federal agency or State or local entity with responsibilities under the National Drug Control Strategy.

(2) A transfer may be made under paragraph (1) only with the advance written approval of the Committees on Appropriations of each House of Congress.

(d) **INVESTMENT OF FUND.**—Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(e) **PRESIDENT'S BUDGET.**—The President shall, in consultation with the Director for National Drug Control Policy, include, as part of the budget submitted to the Congress under section 1105(a) of title 31, a separate and detailed request for the use of the amounts in the Fund. This request shall reflect the priorities of the National Drug Control strategy.<sup>4</sup>

(f) **FUNDS PROVIDED SUPPLEMENTAL.**—Funds disbursed under this subsection<sup>5</sup> shall not be used to supplant existing funds, but shall be used to supplement the amount of funds that would be otherwise available.

(g) **ANNUAL REPORT.**—No later than 4 months after the end of each fiscal year, the President shall submit to both Houses of Congress a detailed report on the amounts deposited in the Fund and a description of expenditures made under this subsection.

<sup>3</sup>For provisions governing transfers from Departments of Justice and Treasury forfeiture funds see: 28 USC 524(c)(9) and 31 USC 9703(g).

<sup>4</sup>So in original. Probably should be capitalized.

<sup>5</sup>So in original. Probably should be "section."

## B. THE FOREIGN ASSISTANCE ACT OF 1961

Partial text of Public Law 87-195 [S. 1983], 75 Stat. 424, approved  
September 4, 1961, as amended

AN ACT To promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world in their efforts toward economic development and internal and external security, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as "The Foreign Assistance Act of 1961."

### PART I

#### Chapter 1—Policy; Development Assistance Authorizations

\* \* \* \* \*

##### **Sec. 126.<sup>1</sup> Development and Illicit Narcotics Production.—**

(a) The Congress recognizes that illicit narcotics cultivation is related to overall development problems and that the vast majority of all individuals employed in the cultivation of illicit narcotics reside in the developing countries and are among the poorest of the poor in those countries and that therefore the ultimate success of any effort to eliminate illicit narcotics production depends upon the availability of alternative economic opportunities for those individuals, upon other factors which assistance under this chapter could address, as well as upon direct narcotics control efforts.

(b)(1) In planning programs of assistance under this chapter, and chapter 10 of this part, and under chapter 4 of part II for countries in which there is illicit narcotics cultivation, the agency primarily responsible for administering this part should give priority consideration to programs which would help reduce illicit narcotics cultivation by stimulating broader development opportunities.

(2) The agency primarily responsible for administering this part may utilize resources for activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

(c) In furtherance of the purposes of this section, the agency primarily responsible for administering this part shall cooperate fully with, and share its expertise in development matters with, other agencies of the United States Government involved in narcotics control activities abroad.

\* \* \* \* \*

### PART I

\* \* \* \* \*

<sup>1</sup> 22 U.S.C. 2151x.

## Chapter 8—International Narcotics Control

### Sec. 481.<sup>2</sup> Policy, General Authorities, Coordination, Foreign Police Actions, Definitions, and Other Provisions.

#### (a) POLICY AND GENERAL AUTHORITIES.—

(1) STATEMENTS OF POLICY.—(A) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States.

(B) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the parties are required to criminalize certain drug-related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

(C) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

(D) The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

(E) The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions.

(F) Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

(2) In order to promote such cooperation, the President is authorized to conclude agreements, including reciprocal maritime agreements, with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivatives, other narcotic and psychotropic drugs, and other controlled substances.

(3) In order to promote international cooperation in combating international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

(4) Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, or such terms and conditions as he may determine, for

the control of narcotic and psychotropic drugs and other controlled substances.

(b) COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—

(1) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

(2) RULE OF CONSTRUCTION.—Nothing contained in this subsection or section 489(b) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

(c) PARTICIPATION IN FOREIGN POLICE ACTIONS.—

(1) PROHIBITION ON EFFECTING AN ARREST.—No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law.

(2) PARTICIPATION IN ARREST ACTIONS.—Paragraph (1) does not prohibit an officer or employee of the United States, with the approval of the United States chief of mission, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

(3) EXCEPTION FOR EXIGENT, THREATENING CIRCUMSTANCES.—Paragraph (1) does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

(4) EXCEPTION FOR MARITIME LAW ENFORCEMENT.—With the agreement of a foreign country, paragraph (1) does not apply with respect to maritime law enforcement operations in the territorial sea or archipelagic waters of that country.

(5) INTERROGATIONS.—No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

(6) EXCEPTION FOR STATUS OF FORCES ARRANGEMENTS.—This subsection does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces Arrangements.

(d) USE OF HERBICIDES FOR AERIAL ERADICATION.—

(1) MONITORING.—The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide for aerial eradication in order to determine the impact of such use on the environment and on the health of individuals.

(2) ANNUAL REPORTS.—In the annual report required by section 489(a), the President shall report on the impact on the en-

vironment and the health of individuals of the use under this chapter of a herbicide for aerial eradication.

(3) REPORT UPON DETERMINATION OF HARM TO ENVIRONMENT OR HEALTH.—If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.

(e) DEFINITIONS.—For purposes of this chapter and other provisions of this Act relating specifically to international narcotics matters—

(1) the term “legal and law enforcement measures” means—

(A) the enactment and implementation of laws and regulations or the implementation of existing laws and regulations to provide for the progressive control, reduction, and gradual elimination of the illicit cultivation, production, processing, transportation, and distribution of narcotic drugs and other controlled substances; and

(B) the effective organization, staffing, equipping, funding, and activation of those governmental authorities responsible for narcotics control;

(2) the term “major illicit drug producing country” means a country in which—

(A) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year;

(B) 1,000 hectares or more of illicit coca is cultivated or harvested during a year; or

(C) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President determines that such illicit cannabis production does not significantly affect the United States;

(3) the term “narcotic and psychotropic drugs and other controlled substances” has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country of countries concerned;

(4) the term “United States assistance” means—

(A) any assistance under this Act (including programs under title IV of chapter 2, relating to the Overseas Private Investment Corporation), other than—

(i) assistance under this chapter,

(ii) any other narcotics-related assistance under this part (including chapter 4 of part II), but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act,

(iii) disaster relief assistance, including any assistance under chapter 9 of this part,

(iv) assistance which involves the provision of food (including monetization of food) or medicine, and

(v) assistance for refugees;

(B) sales, or financing on any terms, under the Arms Export Control Act;

(C) the provision of agricultural commodities, other than food, under the Agricultural Trade Development and Assistance Act of 1954; and

(D) financing under the Export-Import Bank Act of 1945;

(5) the term "major drug-transit country" means a country—

(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; or

(B) through which are transported such drugs or substances

(6) the term "precursor chemical" has the same meaning as the term "listed chemical" has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 802(33));

(7) 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; and

(8) the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

**Sec. 482.<sup>3</sup> Authorization.**—(a)(1) To carry out the purposes of section 481, 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 chapter 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 chapter,

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 634A.

(c) **CONTRIBUTION BY RECIPIENT COUNTRY.**—To ensure local commitment to the activities assisted under this chapter, a country receiving assistance under this chapter 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.

<sup>3</sup>22 U.S.C. 2291a.

(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.

**Sec. 483.<sup>4</sup> Prohibition on Use of Foreign Assistance for Reimbursements for Drug Crop Eradications.**—Funds made available to carry out this Act may not be used to reimburse persons whose illicit drug crops are eradicated.

**Sec. 484.<sup>5</sup> 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 chapter, 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 634A.

(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 Act may be used to finance the leasing of aircraft under chapter 6 of that Act.

(B) Section 61(a)(3) of that Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment

<sup>4</sup> 22 U.S.C. 2291b.

<sup>5</sup> 22 U.S.C. 2291c.

of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(C) To the extent that aircraft so leased were acquired under chapter 5 of that Act, funds used pursuant to this paragraph to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

(b) **PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.**—The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this chapter are used only in ways that are consistent with the purposes for which such equipment was made available.

(c) **REPORTS.**—In the reports submitted pursuant to section 489(a), the President shall discuss—

(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and

(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

**Sec. 485.<sup>6</sup> Records of Aircraft Use.**—(a) **REQUIREMENT TO MAINTAIN RECORDS.**—The President shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available before the enactment of this section.

(b) **CONGRESSIONAL ACCESS TO RECORDS.**—The President shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.

**Sec. 486.<sup>7</sup> Reallocation of Funds Withheld from Countries Which Fail to Take Adequate Steps to Halt Illicit Drug Production or Trafficking.**

If any funds authorized to be appropriated for any fiscal year for assistance under this Act are not used for assistance for the country for which those funds were allocated because of the requirements of section 490 or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

(1) **INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.**—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds

<sup>6</sup>22 U.S.C. 2291d.

<sup>7</sup>22 U.S.C. 2291e.



transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

(2) **OTHER ASSISTANCE.**—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional assistance for those countries.

**Sec. 487.<sup>8</sup> Prohibition on Assistance to Drug Traffickers.**

(a) **PROHIBITION.**—The President shall take all reasonable steps to ensure that assistance under this Act and the Arms Export Control Act is not provided to or through any individual or entity that the President knows or has reason to believe—

(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating to narcotic or psychotropic drugs or other controlled substances; or

(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assister, abettor, conspirator, or colluder 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) shall be submitted to the Congress before they take effect.

**Sec. 488.<sup>9</sup> Limitations on Acquisition of Real Property and Construction of Facilities.**

(a) **ACQUISITION OF REAL PROPERTY.**—

(1) **PROHIBITION.**—Funds made available to carry out this chapter 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.

(3) **REPORT.**—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.

(b) **CONSTRUCTION OF FACILITIES.**—

<sup>8</sup>22 U.S.C. 2291f.

<sup>9</sup>22 U.S.C. 2291g.

(1) **LIMITATION.**—Funds made available to carry out this chapter 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 634A.

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

**Sec. 489.<sup>10</sup> Reporting Requirements for Fiscal Year 1995.**

(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 chapter 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, mutual 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

<sup>10</sup> 22 U.S.C. 2291h.

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 490(h);

(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.

**(b) ANNUAL REPORTS ON ASSISTANCE.—**

(1) IN GENERAL.—At the time that the report required by subsection (a) 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), 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.

(c) EFFECTIVE DATE OF SECTIONS.—This section applies only during fiscal year 1995. Section 489A does not apply during that fiscal year.

**Sec. 489A.<sup>11</sup> Reporting Requirements Applicable After September 30, 1995.**

**(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—**

(1) **REQUIREMENT FOR 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 on United States policy to establish and encourage an international strategy to prevent the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances.

(2) **CONTENTS.**—Each report pursuant to this subsection shall include the following:

(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 policy development, bilateral and multilateral funding and other support for international narcotics control projects, representations of the United States Government to international organizations and agencies concerned with narcotics control, training of foreign enforcement personnel, coordination of the international narcotics control activities of United States Government agencies, and technical assistance to international demand reduction programs.

(B) A description of the activities of the United States in international financial institutions to combat the entry of narcotic and psychotropic drugs and other controlled substances into the United States for the fiscal year just ended, for the current fiscal year, and for the next fiscal year.

(C) The identity of those countries which are the significant direct or indirect sources of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States. For each such country, each report shall include the following:

(i) 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.

(ii) A description of the assistance under this chapter and the other kinds of United States assistance which such country received in the preceding fiscal year, which are planned for such country for the current fiscal year, and which are proposed for such country for the next fiscal year, with an analysis of the impact that the furnishing of each such kind of assistance has had or is expected to have on the illicit cultivation and manufacture of and traffic in narcotic and

<sup>11</sup> 22 U.S.C. 2291i.

psychotropic drugs and other controlled substances in such country.

(iii) A description of the plans, programs, and time-tables adopted by such country for the progressive elimination of the illicit cultivation of narcotic and psychotropic drugs and other controlled substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with these plans.

(iv) A discussion of the extent to which such country has cooperated with United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.

(D) For each major illicit drug producing country for which the President is proposing to furnish United States assistance for the next fiscal year, a determination by the President of the maximum reductions in illicit drug production which are achievable during the next fiscal year. Each such determination shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.

(E) For each major illicit drug producing country which received United States assistance for the preceding fiscal year, the actual reductions in illicit drug production achieved by that country during such fiscal year.

(F) Specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have, during the preceding year, cooperated fully with such agencies (as described in section 490A(b)).

(G) A description of the United States assistance for the preceding fiscal year which was denied, pursuant to section 490 or 490A, to each major illicit drug producing country and each major drug-transit country.

(b) MIDYEAR REPORT.—Not later than September 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 complete and detailed midyear report on the activities and operations carried out under this chapter prior to such date. Such midyear report shall include the status of each agreement concluded prior to such date with other countries to carry out this chapter.

(c) ANNUAL REPORTS ON ASSISTANCE.—

(1) IN GENERAL.—At the time that the report required by subsection (a) 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 by the United States Government during the preceding fiscal year to support inter-

national 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;

(B) include, for each country which is a significant direct or indirect source of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, a section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

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

(ii) the assistance provided or to be provided (as the case may be) 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.

#### **Sec. 490.<sup>12</sup> Annual Certification Procedures for Fiscal Year 1995.**

(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 653 for each major illicit drug producing country or major drug-transit country 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 634A.

(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)), except as provided in subsection

<sup>12</sup> 22 U.S.C. 2291j.



(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 489(a), 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 489(a), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

(e) **DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.**—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f) are satisfied—

(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

(f) **RECERTIFICATION.**—Subsection (e) shall apply to a country described in that subsection until—

(1) the President, at the time of submission of the report required by section 489(a), makes a certification under subsection (b)(1)(A) or (b)(1)(B) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

(2) the President, at any other time, makes the certification described in subsection (b)(1)(B) with respect to that country, except that this paragraph applies only if either—

(A) the President also certifies that—

(i) that country has undergone a fundamental change in government, or

(ii) there has been a fundamental change in the conditions that were the reason—

(I) why the President had not made a certification with respect to that country under subsection (b)(1)(A), or

(II) if he had made such a certification and the Congress enacted a joint resolution disapproving the determination contained in the certification, why the Congress enacted that joint resolution; or

(B) the Congress enacts a joint resolution approving the determination contained in the certification under subsection (b)(1)(B).

Any certification under subparagraph (A) of paragraph (2) shall discuss the justification for the certification.

(g) SENATE PROCEDURES.—

(1) Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(h) DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES.—Not later than November 1 of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major drug-transit countries, and which countries have been determined to be major illicit drug producing countries, for purposes of this Act.

(i) EFFECTIVE DATE OF SECTIONS.—This section applies only during fiscal year 1995. Section 490A does not apply during fiscal year [1995].<sup>13</sup>

**Sec. 490A.<sup>14</sup> Annual Certification Procedures After September 30, 1995.**

(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 653 for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in subsection (b).

(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, 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 PROCEDURE.—

(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection

<sup>13</sup> Editor's insertion.

<sup>14</sup> 22 U.S.C. 2291k.

(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 489A(a), that—

(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

(i) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in paragraph (2)) or a multilateral agreement which achieves the objectives of paragraph (2),

(ii) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

(iii) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

(iv) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; 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) BILATERAL NARCOTICS AGREEMENT.—A bilateral narcotics agreement referred to in paragraph (1)(A)(i) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

(A) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

(B) increase drug interdiction and enforcement;

(C) increase drug treatment;

(D) increase the identification of and elimination of illicit drug laboratories;

(E) increase the identification of, and elimination of trafficking in, essential precursor chemicals for use in the illicit production of narcotic and psychotropic drugs and other controlled substances;

(F) increase cooperation with United States drug enforcement officials; and

(G) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

(3) REQUIREMENT FOR NARCOTICS AGREEMENT FOR CERTAIN COUNTRIES.—A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under paragraph (1)(A) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of paragraph (2).

(4) INFORMATION TO BE INCLUDED IN 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.

(5) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under paragraph (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 has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

(c) MATTERS TO BE CONSIDERED.—In determining whether to make the certification required by subsection (b) with respect to a country, the President shall consider the following:

(1) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 489A(a)(2)(D)? In the case of a major illicit drug producing country, the President shall give foremost consideration, in determining whether to make the determination required by subsection (b)(1)(A), to whether the government of that country has taken actions which have resulted in such reductions.

(2) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators in-

volved in the traffic in such drugs and substances significantly affecting the United States?

(3) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

(A) the enactment and enforcement by that government of laws prohibiting such conduct;

(B) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering; and

(C) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts;

(4) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the illicit production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

(5) Has that government, as a matter of government policy or practice, encouraged or facilitated the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

(6) Does any senior official of that government engage in, encourage, or facilitate the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

(7) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities has been the victim, since January 1, 1985, of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and energetically sought to bring the perpetrators of such offense or offenses to justice?

(8) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

(9) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

(10) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

(11) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed

extradition requests relating to narcotics trafficking made by other countries?

(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under subsection (b), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f)(1) are satisfied—

(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

(f) RECERTIFICATION.—

(1) TIME OF RECERTIFICATION; CONGRESSIONAL ACTION.—Subsection (e) shall apply to a country described in that subsection until—

(A) the President makes a certification under subsection (b) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

(B) the President submits, at any other time, a certification described in subparagraph (A) or (B) of subsection (b)(1) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.

(2) CONGRESSIONAL REVIEW PROCEDURES.—(A) Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(g) DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES AFTER SEPTEMBER 30, 1995.—

(1) ESTABLISHMENT OF GUIDELINES.—For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under subparagraphs (A) and (B) of section 481(e)(5).

(2) NOTICE TO CONGRESS OF PRELIMINARY STANDARDS.—Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to paragraph (1) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

(3) NOTICE TO CONGRESS OF PRELIMINARY DETERMINATIONS.—Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

(A) which countries have been determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

(B) which countries have been determined to be major illicit drug producing countries for that year.

## PART II

### Chapter 1—Policy

\* \* \* \* \*

**Sec. 502B.<sup>15</sup> Human Rights.**—(a)(1) The United States shall, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.

(2) Except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights. Security assistance may not be provided to the police, domestic intelligence, or similar law enforcement forces of a country, and licenses may not be issued under the Export Administration Act of 1979 for the export of crime control and detection instruments and equipment to a country, the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate (when licenses are to be issued pursuant to the Export Administration Act of 1979), that extraordinary circumstances exist warranting provision of such assistance and issuance of such licenses. Assistance may not be provided under chapter 5 of this part to a country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights unless the President certifies in writing to the Speaker of the House of Representatives and the chair-

<sup>15</sup> 22 U.S.C. 2304.



man of the Committee on Foreign Relations of the Senate that extraordinary circumstances exist warranting provision of such assistance.

(3) In furtherance of paragraphs (1) and (2), the President is directed to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

(b) The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs proposed for each fiscal year, a full and complete report, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights and Labor, with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization. In determining whether a government falls within the provisions of subsection (a)(3) and in the preparation of any report or statement required under this section, consideration shall be given to—

(1) the relevant findings of appropriate international organizations, including nongovernmental organizations, such as the International Committee of the Red Cross; and

(2) the extent of cooperation by such government in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights.

(c)(1) Upon the request of the Senate or the House of Representatives by resolution of either such House, or upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the Secretary of State shall, within thirty days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Assistant Secretary of State for Democracy, Human Rights and Labor, with respect to the country designated in such request, setting forth—

(A) all the available information about observance of and respect for human rights and fundamental freedom in that country, and a detailed description of practices by the recipient government with respect thereto;

(B) the steps the United States has taken to—

(i) promote respect for and observance of human rights in that country and discourage any practices which are inimical to internationally recognized human rights, and

(ii) publicly or privately call attention to, and disassociate the United States and any security assistance provided for such country from, such practices;

(C) whether, in the opinion of the Secretary of State, notwithstanding any such practices—

(i) extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and, if so, a description of such circumstances and the extent to which such assistance should be continued (subject to such conditions as Congress may impose under this section), and

(ii) on all the facts it is in the national interest of the United States to provide such assistance; and

(D) such other information as such committee or such House may request.

(2)(A) A resolution of request under paragraph (1) of this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(B) The term "certification", as used in section 601 of such Act, means, for the purposes of this subsection, a resolution of request of the Senate under paragraph (1) of this subsection.

(3) In the event a statement with respect to a country is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within thirty days after receipt of such request, no security assistance shall be delivered to such country except as may thereafter be specifically authorized by law from such country unless and until such statement is transmitted.

(4)(A) In the event a statement with respect to a country is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating, restricting, or continuing security assistance for such country. In the event such a joint resolution is adopted, such assistance shall be so terminated, so restricted, or so continued, as the case may be.

(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(C) The term "certification", as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

(d) For the purposes of this section—

(1) the term "gross violations of internationally recognized human rights" includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, and other flagrant denial of the right to life, liberty, or the security of person; and

(2) the term "security assistance" means—

(A) assistance under chapter 2 (military assistance) or chapter 4 (economic support fund) or chapter 5 (military education and training) or chapter 6 (peacekeeping operations) or chapter 8 (antiterrorism assistance) of this part;

(B) sales of defense articles or services, extensions of credits (including participations in credits), and guaranties of loans under the Arms Export Control Act; or

(C) any license in effect with respect to the export of defense articles or defense services to or for the armed forces,

police, intelligence, or other internal security forces of a foreign country under section 38 of the Arms Export Control Act.

(e) Notwithstanding any other provision of law, funds authorized to be appropriated under part I of this Act may be made available for the furnishing of assistance to any country with respect to which the President finds that such a significant improvement in its human rights record has occurred as to warrant lifting the prohibition on furnishing such assistance in the national interest of the United States.

(f) In allowing the funds authorized to be appropriated by this Act and the Arms Export Control Act, the President shall take into account significant improvements in the human rights records of recipient countries, except that such allocations may not contravene any other provision of law.

(g) Whenever the provisions of subsection (e) or (f) of this section are applied, the President shall report to the Congress before making any funds available pursuant to those subsections. The report shall specify the country involved, the amount and kinds of assistance to be provided, and the justification for providing the assistance, including a description of the significant improvements which have occurred in the country's human rights record.

\* \* \* \* \*

## Chapter 2—Military Assistance

\* \* \* \* \*

**Sec. 506.<sup>16</sup> Special Authority.**—(a)(1) If the President determines and reports to the Congress in accordance with section 652 of this Act that—

(A) an unforeseen emergency exists which requires immediate military assistance to a foreign country or international organization; and

(B) the emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except this section;

he may direct, for the purposes of this part, the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of not to exceed \$75,000,000 in any fiscal year.

(2)(A) If the President determines and reports to the Congress in accordance with section 652 of this Act that it is in the national interest of the United States to draw down defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, he may direct—

(i) the drawdown of such articles, services, and the provision of such training for the purposes and under the authorities of chapters 8 and 9 of part I, as the case may be; and

<sup>16</sup>22 U.S.C. 2318.

(ii) the drawdown of defense services for the purposes and under the authorities of the Migration and Refugee Assistance Act of 1962.

(B) An aggregate value of not to exceed \$75,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to subparagraph (A) of this paragraph.

(b)(1) The authority contained in this section shall be effective for any such emergency only upon prior notification to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Appropriations of each House of Congress.

(2) The President shall keep the Congress fully and currently informed of all defense articles, defense services, and military education and training provided under this section.

(c) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

\* \* \* \* \*

**Sec. 517.<sup>17</sup> Modernization of Counternarcotics Capabilities of Certain Countries.**—(a) **AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.**—Subject to the limitations in this section, the President may transfer to a country—

(1) which is a major illicit drug producing country or a major drug-transit country in Latin America and the Caribbean,

(2) which has a democratic government, and

(3) whose armed forces do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1)),

such excess defense articles as may be necessary to carry out subsection (b).

(b) **PURPOSE.**—Excess defense articles may be transferred under subsection (a) only for the purpose of encouraging the military forces and local law enforcement agencies of an eligible country in Latin America and the Caribbean to participate cooperatively in a comprehensive national antinarcotics program, conceived and developed by the government of that country, by conducting activities within that country and on the high seas to prevent the production, processing, trafficking, transportation, and consumption of illicit narcotic or psychotropic drugs or other controlled substances.

(c) **USES OF EXCESS DEFENSE ARTICLES.**—Excess defense articles may be furnished to a country under subsection (a) only if that country ensures that those excess defense articles will be used primarily in support of antinarcotics activities.

(d) **ROLE OF THE SECRETARY OF STATE.**—The Secretary of State shall determine the eligibility of countries to receive excess defense articles under subsection (a). In accordance with section 481(b) of this Act, the Secretary shall ensure that the transfer of excess defense articles under subsection (a) is coordinated with other antinarcotics enforcement programs assisted by the United States Government.

<sup>17</sup> 22 U.S.C. 2321k.

(e) **DOLLAR LIMITATION.**—The aggregate value of excess defense articles transferred to a country under subsection (a) in any fiscal year may not exceed \$10,000,000.

(f) **CONDITIONS ON TRANSFERS.**—The President may transfer excess defense articles under this section only if—

(1) they are drawn from existing stocks of the Department of Defense;

(2) funds available to the Department of Defense for the procurement of defense equipment are not expended in connection with the transfer;

(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States; and

(4) the President first considers the effects of the transfer of the excess defense articles on the national technology and industrial base, particularly the extent, if any, to which the transfer reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are transferred.

(g) **TERMS OF TRANSFERS.**—Excess defense articles may be transferred under this section without cost to the recipient country.

(h) **WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.**—Section 632(d) does not apply with respect to transfers of excess defense articles under this section.

(i) **NOTIFICATION TO CONGRESS.**—

(1) **ADVANCE NOTICE.**—The President may not transfer excess defense articles under this section until 15 days after the President has provided notice of the proposed transfer to the committees specified in paragraph (2). This notification shall include—

(A) a certification of the need for the transfer;

(B) an assessment of the impact of the transfer on the military readiness of the United States; and

(C) a statement of the value of the excess defense articles to be transferred.

(2) **COMMITTEES TO BE NOTIFIED.**—Notice shall be provided pursuant to paragraph (1) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(j) **LIMITATION ON USE OF OTHER AUTHORITIES TO TRANSFER EXCESS DEFENSE ARTICLES.**—The transfer authority provided in sections 518 and 519 may not be exercised with respect to any major illicit drug producing country or major drug-transit country in Latin America or the Caribbean.

(k) **EXCESS COAST GUARD PROPERTY.**—As used in this section, the term “excess defense articles” shall be deemed to include excess property of the Coast Guard, and the term “Department of Defense” shall be deemed, with respect to such excess property, to include the Coast Guard.

## PART III

## Chapter 1—General Provisions

\* \* \* \* \*

**Sec. 610.<sup>18</sup> Transfer Between Accounts.**—(a) Whenever the President determines it to be necessary for the purposes of this Act, not to exceed 10 per centum of the funds made available for any provision of this Act (except funds made available pursuant to title IV of chapter 2 of part I or for section 23 of the Arms Export Control Act) may be transferred to, and consolidated with, the funds made available for any provision of this Act, (except funds made available under chapter 2 of part II of this Act) and may be used for any of the purposes for which such funds may be used, except that the total in the provision for the benefit of which the transfer is made shall not be increased by more than 20 per centum of the amount of funds made available for such provision.

(b) The authority contained in this section and in sections 451, 506, and 614 shall not be used to augment appropriations made available pursuant to sections 636(g)(1) and 637 or used otherwise to finance activities which normally would be financed from appropriations for administrative expenses.

(c) Any funds which the President has notified Congress pursuant to section 653 that he intends to provide in military assistance to any country may be transferred to, and consolidated with, any other funds he has notified Congress pursuant to such section that he intends to provide to that country for development assistance purposes.

\* \* \* \* \*

**Sec. 614.<sup>19</sup> Special Authorities.**—(a)(1) The President may authorize the furnishing of assistance under this Act without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this Act, in furtherance of any of the purposes of this Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is important to the security interests of the United States.

(2) The President may make sales, extend credit, and issue guarantees under the Arms Export Control Act, without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under the Arms Export Control Act, in furtherance of any of the purposes of such Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is vital to the national security interests of the United States.

(3) Before exercising the authority granted in this subsection, the President shall consult with, and shall provide a written policy justification to, the Committee on Foreign Affairs and the Committee

<sup>18</sup> 22 U.S.C. 2360.

<sup>19</sup> 22 U.S.C. 2364.

on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(4)(A) The authority of this subsection may not be used in any fiscal year to authorize—

(i) more than \$750,000,000 in sales to be made under the Arms Export Control Act;

(ii) the use of more than \$250,000,000 of funds made available for use under this Act or the Arms Export Control Act; and

(iii) the use of more than \$100,000,000 of foreign currencies accruing under this Act or any other law.

(B) If the authority of this subsection is used both to authorize a sale under the Arms Export Control Act and to authorize funds to be used under the Arms Export Control Act or under this Act with respect to the financing of that sale, then the use of the funds shall be counted against the limitation in subparagraph (A)(ii) and the portion, if any, of the sale which is not so financed shall be counted against the limitation in subparagraph (A)(i).

(C) Not more than \$50,000,000 of the \$250,000,000 limitation provided in subparagraph (A)(ii) may be allocated to any one country in any fiscal year unless that country is a victim of active aggression, and not more than \$500,000,000 of the aggregate limitation of \$1,000,000,000 provided in subparagraphs (A)(i) and (A)(ii) may be allocated to any one country in any fiscal year.

(5) The authority of this section may not be used to waive the limitations on transfers contained in section 610(a) of this Act.

(b) \* \* \*

(c) \* \* \*

\* \* \* \* \*

## **Sec. 620.<sup>20</sup> Prohibitions Against Furnishing Assistance.—**

(q) No assistance shall be furnished under this Act to any country which is in default, during a period in excess of six calendar months, in payment to the United States of principal or interest on any loan made to such country under this Act, unless such country meets its obligations under the loan or unless the President determines that assistance to such country is in the national interest and notifies the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate of such determination.

\* \* \* \* \*

## **Chapter 2—Administrative Provisions**

\* \* \* \* \*

**Sec. 634A.<sup>21</sup> Notification of Program Changes.—**(a) None of the funds appropriated to carry out the purposes of this Act (except for programs under title III or title IV of chapter 2 of part I, chapter 5 of part I, and programs of disaster relief and rehabilitation) or the Arms Export Control Act may be obligated for any activities,

<sup>20</sup> 22 U.S.C. 2370.

<sup>21</sup> 22 U.S.C. 2394-1.

programs, projects, types of material assistance, countries, or other operations not justified, or in excess of the amount justified, to the Congress for obligation under this Act or the Arms Export Control Act for any fiscal year unless the Committee on Foreign Relations of the Senate, the Committee on International Relations of the House of Representatives, and the Committee on Appropriations of each House of the Congress are notified fifteen days in advance of such obligation. Whenever a proposed reprogramming exceeds \$1,000,000 and the total amount proposed for obligation for a country under this Act in a fiscal year exceeds by more than \$5,000,000 the amount specified for that country in the report required by section 653(a) of this Act, notifications of such proposed reprogrammings shall specify—

(1) the nature and purpose of such proposed obligation, and

(2) to the extent possible at the time of the proposed obligation, the country for which such funds would otherwise have been obligated.

(b) The notification requirement of this section does not apply to the reprogramming—

(1) of funds to be used for an activity, program, or project under chapter 1 of part I if the amounts to be obligated for that activity, program, or project for that fiscal year do not exceed by more than 10 percent the amount justified to the Congress for that activity, program, or project for that fiscal year; or

(2) of less than \$25,000 to be used under chapter 8 of part I, or under chapter 5 of part II, for a country for which a program under that chapter for that fiscal year was justified to the Congress.

(c) The President shall notify the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives concerning any reprogramming of funds in the International Affairs Budget Function, the authorizations of appropriations for which are in their respective jurisdictions, to the same degree and with the same conditions as the President notifies the Committees on Appropriations. The requirements of this subsection are in addition to, and not in lieu of, other notification requirements.

\* \* \* \* \*

### Chapter 3—Miscellaneous Provisions

\* \* \* \* \*

**Sec. 660.<sup>22</sup> Prohibiting Police Training.**—(a) On and after July 1, 1975, none of the funds made available to carry out this Act, and none of the local currencies generated under this Act, shall be used to provide training or advice, or provide any financial support, for police, prisons, or other law enforcement forces for any foreign government or any program of internal intelligence or sur-

<sup>22</sup> 22 U.S.C. 2420. Note that sections 104 and 106 of the International Narcotics Control Corrections Act of 1994 [H.R. 5246] exempt narcotics related training and anti-crime related training from the provisions of this section.



veillance on behalf of any foreign government within the United States or abroad.

(b) Subsection (a) of this section shall not apply—

(1) with respect to assistance rendered under section 515(c) of the Omnibus Crime Control and Safe Streets Act of 1968 with respect to any authority of the Drug Enforcement Administration or the Federal Bureau of Investigation which relates to crimes of the nature which are unlawful under the laws of the United States, or with respect to assistance authorized under section 482 of this Act;

(2) to any contract entered into prior to the date of enactment of this section with any person, organization, or agency of the United States Government to provide personnel to conduct, or assist in conducting, any such program;

(3) with respect to assistance, including training, in maritime law enforcement and other maritime skills; or

(4) with respect to assistance provided to police forces in connection with their participation in the regional security system of the Eastern Caribbean states.

Notwithstanding clause (2), subsection (a) shall apply to any renewal or extension of any contract referred to in such paragraph entered into on or after such date of enactment.

(c) Subsection (a) shall not apply with respect to a country which has a longstanding democratic tradition, does not have standing armed forces, and does not engage in a consistent pattern of gross violations of internationally recognized human rights.

(d) Notwithstanding the prohibition contained in subsection (a), assistance may be provided to Honduras or El Salvador for fiscal years 1986 and 1987 if, at least 30 days before providing assistance, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act, that he has determined that the government of the recipient country has made significant progress, during the preceding six months, in eliminating any human rights violations including torture, incommunicado detention, detention of persons solely for the non-violent expression of their political views, or prolonged detention without trial. Any such notification shall include a full description of the assistance which is proposed to be provided and of the purposes to which it is to be directed.

\* \* \* \* \*

## C. State Department Basic Authorities Act of 1956

Partial text of Public Law 84-885 [S. 2569], 70 Stat. 890, approved August 1, 1956, as amended

AN ACT To provide certain basic authority for the Department of State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Department Basic Authorities Act of 1956".*

### TITLE I—BASIC AUTHORITIES GENERALLY

\* \* \* \* \*

#### SEC. 36.<sup>1</sup> (a) \* \* \*

(b)(1) The Secretary of State, upon the request of a chief of mission and with the concurrence of the Attorney General, may pay a reward to any individual who furnishes information leading to—

(A) the arrest or conviction in any country of any individual for committing, primarily outside the territorial jurisdiction of the United States, any narcotics-related offense if that offense involves or is a significant part of conduct that involves—

(i) a violation of United States drug laws which occurs primarily outside the territorial jurisdiction of the United States and which is such that the individual would be a major violator of such laws; or

(ii) the killing or kidnapping outside the territorial jurisdiction of the United States of—

(I) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States drug laws or the implementing of United States drug control objectives; or

(II) a member of the immediate family of any such individual on account of that individual's official duties in connection with the enforcement of United States drug laws or the implementation of United States drug control objectives; or

(iii) an attempt or conspiracy to do any of the acts described in clause (i) or (ii); or

(B) the prevention or frustration of an act described in subparagraph (A).

(2) The purpose of the rewards under this subsection is to assist narcotics law enforcement in the effective arrest and prosecution of major narcotics traffickers and, wherever appropriate, to offer rewards in connection with the killing of, or the attempt to kill, any

<sup>1</sup>22 U.S.C. 2708. See also 28 U.S.C. 524(c)(1)(B), Department of Justice Assets Forfeiture Fund, at Chapter III, V, (4) of this volume.

United States officer or employee, in connection with the performance of narcotics control duties by such officer or employee, or any member of the family of such officer or employee. To ensure that the rewards program authorized by this subsection, especially paragraph (1)(A)(i), does not duplicate or interfere with the payment of informants or the purchase of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under this subsection, including procedures for—

(A) identifying individuals, organizations, and offenses with respect to which rewards will be offered,

(B) the publication of rewards,

(C) offering of joint rewards with foreign governments,

(D) the receipt and analysis of data,

(E) the payment and the approval of payment, and

(F) the recommendations of rewards by chiefs of mission to the Secretary of State and the Attorney General, shall be governed by procedures approved by the Secretary of State and the Attorney General.

(c) A reward under this section may not exceed \$2,000,000. A reward of \$100,000 or more may not be made without the approval of the President or the Secretary of State personally.

(d) Before making a reward under subsection (a) in a matter over which there is Federal criminal jurisdiction, the Secretary of State shall advise and consult with the Attorney General.

(e) Any reward granted under this section shall be certified for payment by the Secretary of State. If the Secretary determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Secretary may take such measures in connection with the payment of the reward as he deems necessary to effect such protection.

(f) An officer or employee of any governmental entity who, while in the performance of his or her official duties, furnishes information described in subsection (a) or (b) shall not be eligible for a reward under this section.

(g) There are authorized to be appropriated, without fiscal year limitation, \$5,000,000 for use in paying rewards under this section, up to \$2,000,000 of which may be used for rewards for information described in subsection (b)(1). In addition to the amount authorized to be appropriated by the preceding sentence, there are authorized to be appropriated, without fiscal year limitation, \$5,000,000 for "Administration of Foreign Affairs" for use in paying rewards for information described in subsection (b)(1). Additional funds to pay rewards under this section shall be authorized to be appropriated in the annual authorizing legislation for the Department of State.

(h) Not later than 30 days after paying any reward under this section, the Secretary of State shall submit a report to the Congress with respect to that reward. The report, which may be submitted on a classified basis if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid, and shall discuss the significance of the information for which the reward was paid in dealing with those acts.

(i) As used in this section—

(1) the term "United States drug laws" means the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined for purposes of the Controlled Substances Act); and

(2) the term "member of the immediate family" includes—

(A) a spouse, parent, brother, sister, or child of the individual;

(B) a person to whom the individual stands in loco parentis; and

(C) any other person living in the individual's household and related to the individual by blood or marriage.

\* \* \* \* \*

#### DENIAL OF PASSPORTS TO CERTAIN CONVICTED DRUG TRAFFICKERS

##### SEC. 42.<sup>2</sup> (a) INELIGIBILITY FOR PASSPORT.—

(1) IN GENERAL.—A passport may not be issued to an individual who is convicted of an offense described in subsection (b) during the period described in subsection (c) if the individual used a passport or otherwise crossed an international border in committing the offense.

(2) PASSPORT REVOCATION.—The Secretary of State shall revoke a passport previously issued to an individual who is ineligible to receive a passport under paragraph (1).

##### (b) DRUG LAW OFFENSES.—

(1) FELONIES.—Subsection (a) applies with respect to any individual convicted of a Federal drug offense, or a State drug offense, if the offense is a felony.

(2) CERTAIN MISDEMEANORS.—Subsection (a) also applies with respect to an individual convicted of a Federal drug offense, or a State drug offense, if the offense is misdemeanor, but only if the Secretary of State determines that subsection (a) should apply with respect to that individual on account of that offense. This paragraph does not apply to an individual's first conviction for a misdemeanor which involves only possession of a controlled substance.

(c) PERIOD OF INELIGIBILITY.—Subsection (a) applies during the period that the individual—

(1) is imprisoned, or is legally required to be imprisoned, as the result of the conviction for the offense described in subsection (b); or

(2) is on parole or other supervised release after having been imprisoned as the result of that conviction.

(d) EMERGENCY AND HUMANITARIAN EXCEPTIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual with respect to whom that subsection applies.

##### (e) DEFINITIONS.—As used in this section—

(1) the term "controlled substance" has the same meaning as is provided in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(2) the term "Federal drug offense" means a violation of—

<sup>2</sup>22 U.S.C. 2714.

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(B) any other Federal law involving controlled substances; or

(C) subchapter II of chapter 53 of title 31, United States Code (commonly referred to as the "Bank Secrecy Act"), or section 1956 or section 1957 of title 18, United States Code (commonly referred to as the "Money Laundering Act"), if the Secretary of State determines that the violation is related to illicit production of or trafficking in a controlled substance;

(3) the term "felony" means a criminal offense punishable by death or imprisonment for more than one year;

(4) the term "imprisoned" means an individual is confined in or otherwise restricted to a jail-type institution, a half-way house, a treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a conviction;

(5) the term "misdemeanor" means a criminal offense other than a felony;

(6) the term "State drug offense" means a violation of State law involving the manufacture, distribution, or possession of a controlled substance; and

(7) the term "State law" means the law of a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

\* \* \* \* \*

## D. The Arms Export Control Act

Partial text of Public Law 90-629 [H.R. 15681], 82 Stat. 1320, approved  
October 22, 1968, as amended

AN ACT To consolidate and revise foreign assistance legislation  
relating to reimbursable military exports.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled, That this Act may  
be cited as the "Arms Export Control Act".*

### Chapter 1—FOREIGN AND NATIONAL SECURITY POLICY OBJECTIVES AND RESTRAINTS

\* \* \* \* \*  
**Sec. 3.<sup>1</sup> Eligibility.**—(a) No defense article or defense service  
shall be sold or leased by the United States Government under this  
Act to any country or international organization, and no agreement  
shall be entered into for a cooperative project (as defined in section  
27 of this Act), unless—

(1) the President finds that the furnishing of defense articles  
and defense services to such country or international organiza-  
tion will strengthen the security of the United States and pro-  
mote world peace;

(2) the country or international organization shall have  
agreed not to transfer title to, or possession of, any defense ar-  
ticle or related training or other defense service so furnished  
to it, or produced in a cooperative project (as defined in section  
27 of this Act), to anyone not an officer, employee, or agent of  
that country or international organization (or the North Atlan-  
tic Treaty Organization or the specific member countries (other  
than the United States) in the case of a cooperative project)  
and not to use or permit the use of such article or related  
training or other defense service for purposes other than those  
for which furnished unless the consent of the President has  
first been obtained;

(3) the country or international organization shall have  
agreed that it will maintain the security of such article or ser-  
vice and will provide substantially the same degree of security  
protection afforded to such article or service by the United  
States Government; and

(4) the country or international organization is otherwise eli-  
gible to purchase or lease defense articles or defense services.  
In considering a request for approval of any transfer of any weap-  
on, weapons system, munitions, aircraft, military boat, military  
vessel, or other implement of war to another country, the President  
shall not give his consent under paragraph (2) to the transfer un-

<sup>1</sup>22 U.S.C. 2753.

less the United States itself would transfer the defense article under consideration to that country. In addition, the President shall not give his consent under paragraph (2) to the transfer of any significant defense articles on the United States Munitions List unless the foreign country requesting consent to transfer agrees to demilitarize such defense articles prior to transfer, or the proposed recipient foreign country provides a commitment in writing to the United States Government that it will not transfer such defense articles, if not demilitarized, to any other foreign country or person without first obtaining the consent of the President. The President shall promptly submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate on the implementation of each agreement entered into pursuant to clause (2) of this subsection.

(b) \* \* \* [Repealed—1977]

(c)(1)(A) No credits (including participations in credits) may be issued and no guaranties may be extended for any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act (i) by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4 for a purpose not authorized under such agreement; (ii) by transferring such articles or services to, or permitting any use of such articles or services by, anyone not an officer, employee, or agent of the recipient country without the consent of the President; or (iii) by failing to maintain the security of such articles or services.

(B) No cash sales or deliveries pursuant to previous sales may be made with respect to any foreign country under this Act as hereinafter provided, if such country uses defense articles or defense services furnished under this Act, or any predecessor Act, in substantial violation (either in terms of quantity or in terms of the gravity of the consequences regardless of the quantities involved) of any agreement entered into pursuant to any such Act by using such articles or services for a purpose not authorized under section 4 or, if such agreement provides that such articles or services may only be used for purposes more limited than those authorized under section 4, for a purpose not authorized under such agreement.

(2) The President shall report to the Congress promptly upon the receipt of information that a violation described in paragraph (1) of this subsection may have occurred.

(3)(A) A country shall be deemed to be ineligible under subparagraph (A) of paragraph (1) of this subsection, or both subparagraphs (A) and (B) of such paragraph in the case of a violation described in both such paragraphs, if the President so determines and so reports in writing to the Congress, or if the Congress so determines by joint resolution.

(B) Notwithstanding a determination by the President of ineligibility under subparagraph (B) of paragraph (1) of this subsection, cash sales and deliveries pursuant to previous sales may be made

if the President certifies in writing to the Congress that a termination thereof would have significant adverse impact on United States security, unless the Congress adopts or has adopted a joint resolution pursuant to subparagraph (A) of this paragraph with respect to such ineligibility.

(4) A country shall remain ineligible in accordance with paragraph (1) of this subsection until such time as—

(A) the President determines that the violation has ceased; and

(B) the country concerned has given assurances satisfactory to the President that such violation will not recur.

(d)(1) The President may not give his consent under paragraph (2) of subsection (a) or under the third sentence of such subsection, or under section 505(a)(1) or 505(a)(4) of the Foreign Assistance Act of 1961, to a transfer of any major defense equipment valued (in terms of its original acquisition cost) at \$14,000,000 or more, or any defense article or related training or other defense service valued (in terms of its original acquisition cost) at \$50,000,000 or more, unless the President submits to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a written certification with respect to such proposed transfer containing—

(A) the name of the country or international organization proposing to make such transfer,

(B) a description of the article or service proposed to be transferred, including its acquisition cost,

(C) the name of the proposed recipient of such article or service,

(D) the reasons for such proposed transfer, and

(E) the date on which such transfer is proposed to be made.

Any certification submitted to Congress pursuant to this paragraph shall be unclassified, except that information regarding the dollar value and number of articles or services proposed to be transferred may be classified if public disclosure thereof would be clearly detrimental to the security of the United States.

(2) (A) Except as provided in subparagraph (B), unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until 30 calendar days after the date of such submission and such consent shall become effective then only if the Congress does not enact, within such 30-day period, a joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act prohibiting the proposed transfer.

(B) In the case of a proposed transfer to the North Atlantic Treaty Organization, or any member country of such Organization, Japan, Australia, or New Zealand, unless the President states in the certification submitted pursuant to paragraph (1) of this subsection that an emergency exists which requires that consent to the proposed transfer become effective immediately in the national security interests of the United States, such consent shall not become effective until fifteen calendar days after the date of such submission and such consent shall become effective then only if the Con-



gress does not enact, within such fifteen-day period, a law prohibiting the proposed transfer.

(3) The President may not give his consent to the transfer of any major defense equipment valued (in terms of its original acquisition cost) at \$14,000,000 or more, or of any defense article or defense service valued (in terms of its original acquisition cost) at \$50,000,000 or more, the export of which has been licensed or approved under section 38 of this Act, unless at least 30 calendar days before giving such consent the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report containing the information specified in subparagraphs (A) through (E) of paragraph (1). Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.

(4) This subsection shall not apply—

(A) to transfers of maintenance, repair, or overhaul defense services, or of the repair parts or other defense articles used in furnishing such services, if the transfer will not result in any increase, relative to the original specifications, in the military capability of the defense articles and services to be maintained, repaired, or overhauled;

(B) to temporary transfers of defense articles for the sole purpose of receiving maintenance, repair, or overhaul; or

(C) to arrangements among members of the North Atlantic Treaty Organization or between the North Atlantic Treaty Organization and any of its member countries—

(i) for cooperative cross servicing, or

(ii) for lead-nation procurement if the certification transmitted to the Congress pursuant to section 36(b) of this Act with regard to such lead-nation procurement identified the transferees on whose behalf the lead-nation procurement was proposed.

(e) If the President receives any information that a transfer of any defense article, or related training or other defense service, has been made without his consent as required under this section or under section 505 of the Foreign Assistance Act of 1961, he shall report such information immediately to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

(f) No sales or leases shall be made to any country that the President has determined is in material breach of its binding commitments to the United States under international treaties or agreements concerning the nonproliferation of nuclear explosive devices (as defined in section 830(4) of the Nuclear Proliferation Prevention Act of 1994) and unsafeguarded special nuclear material (as defined in section 830(8) of that Act).

**Sec. 4.<sup>2</sup> Purposes for Which Military Sales by the United States Are Authorized.**—Defense articles and defense services shall be sold or leased by the United States Government under this Act to friendly countries solely for internal security, for legitimate

<sup>222</sup> U.S.C. 2754.

self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. It is the sense of the Congress that such foreign military forces should not be maintained or established solely for civic action activities and that such civic action activities not significantly detract from the capability of the military forces to perform their military missions and be coordinated with and form part of the total economic and social development effort: *Provided*, That none of the funds contained in this authorization shall be used to guarantee, or extend credit, or participate in an extension of credit in connection with any sale of sophisticated weapons systems, such as missile systems and jet aircraft for military purposes, to any underdeveloped country other than Greece, Turkey, Iran, Israel, the Republic of China, the Philippines, and Korea unless the President determines that such financing is important to the national security of the United States and reports within thirty days each such determination to the Congress.

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## Chapter 2—FOREIGN MILITARY SALES AUTHORIZATIONS

**Sec. 21.<sup>3</sup> Sales From Stocks.**—(a)(1) The President may sell defense articles and defense services from the stocks of the Department of Defense to any eligible country or international organization if such country or international organization agrees to pay in United States dollars—

(A) in the case of a defense article not intended to be replaced at the time such agreement is entered into, not less than the actual value thereof;

(B) in the case of a defense article intended to be replaced at the time such agreement is entered into, the estimated cost of replacement of such article, including the contract or production costs less any depreciation in the value of such article; or

(C) in the case of the sale of a defense service, the full cost to the United States Government of furnishing such service, except that in the case of training sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961, only those additional costs that are incurred by the United States Government in furnishing such assistance.

(2) For purposes of subparagraph (A) of paragraph (1), the actual value of a naval vessel of 3,000 tons or less and 20 years or more of age shall be considered to be not less than the greater of the scrap value or fair value (including conversion costs) of such vessel, as determined by the Secretary of Defense.

<sup>3</sup>22 U.S.C. 2761.

(b) Except as provided by subsection (d) of this section, payment shall be made in advance or, if the President determines it to be in the national interest, upon delivery of the defense article or rendering of the defense service.

(c)(1) Personnel performing defense services sold under this Act may not perform any duties of a combatant nature, including any duties related to training and advising that may engage United States personnel in combat activities, outside the United States in connection with the performance of those defense services.

(2) Within forty-eight hours of the existence of, or a change in status of significant hostilities or terrorist acts or a series of such acts, which may endanger American lives or property, involving a country in which United States personnel are performing defense services pursuant to this Act or the Foreign Assistance Act of 1961, the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, classified if necessary, setting forth—

(A) the identity of such country;

(B) a description of such hostilities or terrorist acts; and

(C) the number of members of the United States Armed Forces and the number of United States civilian personnel that may be endangered by such hostilities or terrorist acts.

(d) If the President determines it to be in the national interest pursuant to subsection (b) of this section, billings for sales made under letters of offer issued under this section after the enactment of this subsection may be dated and issued upon delivery of the defense article or rendering of the defense service and shall be due and payable upon receipt thereof by the purchasing country or international organization. Interest shall be charged on any net amount due and payable which is not paid within sixty days after the date of such billing. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the billing and shall be computed from the date of billing. The President may extend such sixty-day period to one hundred and twenty days if he determines that emergency requirements of the purchaser for acquisition of such defense articles or defense services exceed the ready availability to the purchaser of funds sufficient to pay the United States in full for them within such sixty-day period and submits that determination to the Congress together with a special emergency request for the authorization and appropriation of additional funds to finance such purchases under this Act.

(e)(1) After September 30, 1976, letters of offer for the sale of defense articles or for the sale of defense services that are issued pursuant to this section or pursuant to section 22 of this Act shall include appropriate charges for—

(A) administrative services, calculated on an average percentage basis to recover the full estimated costs (excluding a pro rata share of fixed base operations costs) of administration of sales made under this Act to all purchasers of such articles and services as specified in section 43(b) and section 43(c) of this Act;

(B) a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment (except for equipment wholly paid for either from funds transferred under section 503(a)(3) of the Foreign Assistance Act of 1961 or from funds made available on a nonrepayable basis under section 23 of this Act); and

(C) the recovery of ordinary inventory losses associated with the sale from stock of defense articles that are being stored at the expense of the purchaser of such articles.

(2) The President may reduce or waive the charge or charges which would otherwise be considered appropriate under paragraph (1)(B) for particular sales that would, if made, significantly advance United States Government interests in North Atlantic Treaty Organization standardization, standardization with the Armed Forces of Japan, Australia, or New Zealand in furtherance of the mutual defense treaties between the United States and those countries, or foreign procurement in the United States under coproduction arrangements.

(3)(A) The President may waive the charges for administrative services that would otherwise be required by paragraph (1)(A) in connection with any sale to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of—

- (i) a weapon system partnership agreement; or
- (ii) a NATO/SHAPE project.

(B) The Secretary of Defense may reimburse the fund established to carry out section 43(b) of this Act in the amount of the charges waived under subparagraph (A) of this paragraph. Any such reimbursement may be made from any funds available to the Department of Defense.

(C) As used in this paragraph—

(i) the term "weapon system partnership agreement" means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

(I) is entered into pursuant to the terms of the charter of that organization; and

(II) is for the common logistic support of a specific weapon system common to the participating countries; and

(ii) the term "NATO/SHAPE project" means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.

(f) Any contracts entered into between the United States and a foreign country under the authority of this section or section 22 of this Act shall be prepared in a manner which will permit them to be made available for public inspection to the fullest extent possible consistent with the national security of the United States.

(g) The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94-106), and may enter into similar agreements with Japan, Australia, and New Zealand, and with other countries which are major non-NATO allies, for the cooperative furnishing of training on a bilateral or multilateral basis, if the financial principles of such agreements are based on reciproc-

ity. Such agreements shall include reimbursement for all direct costs but may exclude reimbursement for indirect costs, administrative surcharges, and costs of billeting of trainees (except to the extent that members of the United States Armed Forces occupying comparable accommodations are charged for such accommodations by the United States). Each such agreement shall be transmitted promptly to the Speaker of the House of Representatives and the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate. As used in this subsection, the term "major non-NATO allies" means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

(h)(1) The President is authorized to provide (without charge) quality assurance, inspection, contract administration services, and contract audit defense services under this section—

(A) in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services entered into after the date of enactment of this subsection by, or under this Act on behalf of, a foreign government which is a member of the North Atlantic Treaty Organization, if such government provides such services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government; or

(B) in connection with the placement or administration of any contract or subcontract for defense articles, defense services, or design and construction services pursuant to the North Atlantic Treaty Organization Infrastructure Program in accordance with an agreement under which the foreign governments participating in such program provide such services, without charge, in connection with similar contracts or subcontracts.

(2) In carrying out the objectives of this section, the President is authorized to provide cataloging data and cataloging services, without charge, to the North Atlantic Treaty Organization or to any member government of that Organization if that Organization or member government provides such data and services in accordance with an agreement on a reciprocal basis, without charge, to the United States Government.

(i)(1) Sales of defense articles and defense services which could have significant adverse effect on the combat readiness of the Armed Forces of the United States shall be kept to an absolute minimum. The President shall transmit to the Speaker of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate on the same day a written statement giving a complete explanation with respect to any proposal to sell, under this section or under authority of chapter 2B, any defense articles or defense services if such sale could have a significant adverse effect on the combat readiness of the Armed Forces of the United States. Each such statement shall be unclassified except to the extent that public disclosure of any item of information contained therein would be clearly detrimental to the security of the United States. Any necessarily classified information shall be confined to a supplemental report. Each such statement

shall include an explanation relating to only one such proposal to sell and shall set forth—

(A) the country or international organization to which the sale is proposed to be made;

(B) the amount of the proposed sale;

(C) a description of the defense article or service proposed to be sold;

(D) a full description of the impact which the proposed sale will have on the Armed Forces of the United States; and

(E) a justification for such proposed sale, including a certification that such sale is important to the security of the United States.

A certification described in subparagraph (E) shall take effect on the date on which such certification is transmitted and shall remain in effect for not to exceed one year.

(2) No delivery may be made under any sale which is required to be reported under paragraph (1) of this subsection unless the certification required to be transmitted by paragraph (E) of paragraph (1) is in effect.

(j) **TANK AND INFANTRY VEHICLE UPGRADES.**—(1) Funds received from the sale of tanks under this section shall be available for the upgrading of tanks for fielding to the Army.

(2) Funds received from the sale of infantry fighting vehicles or armored personnel carriers under this section shall be available for the upgrading of infantry fighting vehicles or armored personnel carriers for fielding to the Army.

(3) Paragraphs (1) and (2) apply only to the extent provided in advance in appropriations Acts.

(4) This subsection applies with respect to funds received from sales occurring after September 30, 1989.

(k) Before entering into the sale under this Act of defense articles that are excess to the stocks of the Department of Defense, the President shall first consider the effects of the sale of the articles on the national technology and industrial base, particularly the extent, if any, to which the sale reduces the opportunities of entities in the national technology and industrial base to sell new equipment to the country or countries to which the excess defense articles are sold.

**Sec. 22.<sup>4</sup> Procurement for Cash Sales.**—(a) Except as otherwise provided in this section, the President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of defense articles or defense services for sale for United States dollars to any foreign country or international organization if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such times as may be required to meet the payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due. Interest shall

be charged on any net amount by which any such country or international organization is in arrears under all of its outstanding unliquidated dependable undertakings, considered collectively. The rate of interest charged shall be a rate not less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding short-term obligations of the United States as of the last day of the month preceding the net arrearage and shall be computed from the date of net arrearage.

(b) The President may, if he determines it to be in the national interest, issue letters of offer under this section which provide for billing upon delivery of the defense article or rendering of the defense service and for payment within one hundred and twenty days after the date of billing. This authority may be exercised, however, only if the President also determines that the emergency requirements of the purchaser for acquisition of such defense articles and services exceed the ready availability to the purchaser of funds sufficient to make payments on a dependable undertaking basis and submits both determinations to the Congress together with a special emergency request for authorization and appropriation of additional funds to finance such purchases under this Act. Appropriations available to the Department of Defense may be used to meet the payments required by the contracts for the procurement of defense articles and defense services and shall be reimbursed by the amounts subsequently received from the country or international organization to whom articles or services are sold.

(c) The provisions of the Renegotiation Act of 1951 do not apply to procurement contracts, heretofore or hereafter entered into under this section, section 29, or predecessor provisions of law.

**Sec. 23.<sup>5</sup> Credit Sales.**—(a) The President is authorized to finance the procurement of defense articles, defense services, and

(b) The President shall require repayment in United States dollars within a period not to exceed twelve years after the loan agreement with the country or international organization is signed on behalf of the United States Government, unless a longer period is specifically authorized by statute for that country or international organization.

(c)(1) The President shall charge interest under this section at such rate as he may determine, except that such rate may not be less than 5 percent per year.

(2) For purposes of financing provided under this section—

(A) the term "concessional rate of interest" means any rate of interest which is less than market rates of interest; and

(B) the term "market rate of interest" means any rate of interest which is equal to or greater than the current average interest rate (as of the last day of the month preceding the financing of the procurement under this section) that the United States Government pays on outstanding marketable obligations of comparable maturity.

(d) References in any law to credits extended under this section shall be deemed to include reference to participations in credits.

<sup>5</sup>22 U.S.C. 2763.

(e)(1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 24, subject to paragraph (2).

(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).

**Sec. 24.<sup>6</sup> Guaranties.**—(a) The President may guarantee any individual, corporation, partnership, or other juridical entity doing business in the United States (excluding United States Government agencies other than the Federal Financing Bank) against political and credit risks of nonpayment arising out of their financing of credit sales of defense articles, defense services, and design and construction services to friendly countries and international organizations. Fees shall be charged for such guaranties.

(b) The President may sell to any individual, corporation, partnership, or other juridical entity (excluding United States Government agencies other than the Federal Financing Bank) promissory notes issued by friendly countries and international organizations as evidence of their obligations to make repayments to the United States on account of credit sales financed under section 23, and may guarantee payment thereof.

(c) Funds obligated under this section before the date of enactment of the International Security and Development Cooperation Act of 1980 which constitute a single reserve for the payment of claims under guaranties issued under this section shall remain available for expenditure for the purposes of this section on and after that date. That single reserve may, on and after the date of enactment of the International Security and Development Cooperation Act of 1985, be referred to as the "Guaranty Reserve Fund." Funds provided for necessary expenses to carry out the provisions of section 23 of the Arms Export Control Act and of section 503 of the Foreign Assistance Act of 1961, as amended, may be used to pay claims on the Guaranty Reserve Fund to the extent that funds in the Guaranty Reserve Fund are inadequate for that purpose.

For purposes of any provision in this Act or any other Act relating to a prohibition or limitation on the availability of funds under this Act, whenever a guaranty is issued under this section, the principal amount of the loan so guaranteed shall be deemed to be funds made available for use under this Act. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.

**Sec. 25.<sup>7</sup> Annual Estimate and Justification for Sales Program.**—(a) Except as provided in subsection (d) of this section, no later than February 1 of each year, the President shall transmit to the Congress, as a part of the annual presentation materials for security assistance programs proposed for the next fiscal year, a report which sets forth—

(1) an Arms Sales Proposal covering all sales and licensed commercial exports under this Act of major weapons or weap-

<sup>6</sup>22 U.S.C. 2764.

<sup>7</sup>22 U.S.C. 2765.



ons-related defense equipment for \$7,000,000 or more, or of any other weapons or weapons-related defense equipment for \$25,000,000 or more, which are considered eligible for approval during the current calendar year, together with an indication of which sales and licensed commercial exports are deemed most likely actually to result in the issuance of a letter of offer or of an export license during such year;

(2) an estimate of the total amount of sales and licensed commercial exports expected to be made to each foreign nation from the United States;

(3) the United States national security considerations involved in expected sales or licensed commercial exports to each country, an analysis of the relationship between anticipated sales to each country and arms control efforts concerning such country and an analysis of the impact of such anticipated sales on the stability of the region that includes such country;

(4) an estimate with regard to the international volume of arms traffic to and from nations purchasing arms as set forth in paragraphs (1) and (2) of this subsection, together with best estimates of the sale and delivery of weapons and weapons-related defense equipment by all major arms suppliers to all major recipient countries during the preceding fiscal year;

(5)(A) an estimate of the aggregate dollar value and quantity of defense articles and defense services, military education and training, grant military assistance, and credits and guarantees, to be furnished by the United States to each foreign country and international organization in the next fiscal year; and

(B) for each country that is proposed to be furnished credits or guaranties under this Act in the next fiscal year and that has been approved for cash flow financing (as defined in subsection (d) of this section) in excess of \$100,000,000 as of October 1 of the current fiscal year—

(i) the amount of such approved cash flow financing,

(ii) a description of administrative ceilings and controls applied, and

(iii) a description of the financial resources otherwise available to such country to pay such approved cash flow financing;

(6) an analysis and description of the services performed during the preceding fiscal year by officers and employees of the United States Government carrying out functions on a full-time basis under this Act for which reimbursement is provided under section 43(b) or section 21(a) of this Act, including the number of personnel involved in performing such services;

(7) the total amount of funds in the reserve under section 24(c) at the end of the fiscal year immediately preceding the fiscal year in which a report under this section is made, together with an assessment of the adequacy of such total amount of funds as a reserve for the payment of claims under guaranties issued pursuant to section 24 in view of the current debt servicing capacity of borrowing countries, as reported to the Congress pursuant to section 634(a)(5) of the Foreign Assistance Act of 1961;

(8) a list of all countries with respect to which findings made by the President pursuant to section 3(a)(1) of this Act are in effect on the date of such transmission;

(9) the progress made under the program of the Republic of Korea to modernize its armed forces, the role of the United States in mutual security efforts in the Republic of Korea and the military balance between the People's Republic of Korea and the Republic of Korea;

(10) the amount and nature of Soviet military assistance to the armed forces of Cuba during the preceding fiscal year and the military capabilities of those armed forces;

(11) the status of each loan and each contract of guaranty or insurance theretofore made under the Foreign Assistance Act of 1961, predecessor Acts, or any Act authorizing international security assistance, with respect to which there remains outstanding any unpaid obligation or potential liability; the status of each extension of credit for the procurement of defense articles or defense services, and of each contract of guaranty in connection with any such procurement, theretofore made under the Arms Export Control Act with respect to which there remains outstanding any unpaid obligation or potential liability; and

(12) such other information as the President may deem necessary.

(b) Not later than thirty days following the receipt of a request made by the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives for additional information with respect to any information submitted pursuant to subsection (a), the President shall submit such information to such committee.

(c) The President shall make every effort to submit all of the information required by subsection (a) or (b) wholly in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

(d) The information required by subsection (a)(4) of this section shall be transmitted to the Congress no later than April 1 of each year.

(d) For the purposes of subsection (a)(5)(B) of this section, the term "cash flow financing" means the dollar amount of the difference between the total estimated price of a Letter of Offer and Acceptance or other purchase agreement that has been approved for financing under this Act or under section 503(a)(3) of the Foreign Assistance Act of 1961 and the amount of the financing that has been approved therefor;

**Sec. 26.<sup>8</sup> Security Assistance Surveys.**—(a) The Congress finds that surveys prepared by the United States for foreign countries have had a significant impact on subsequent military procurement decisions of those countries. It is the policy of the United States that the results of security assistance surveys conducted by the United States clearly do not represent a commitment by the

<sup>8</sup>22 U.S.C. 2766.

United States to provide any military equipment to any foreign country. Further, recommendations in such surveys should be consistent with the arms export control policy provided for in this Act.

(b) As part of the quarterly report required by section 36(a) of this Act, the President shall include a list of all security assistance surveys authorized during the preceding calendar quarter, specifying the country with respect to which the survey was or will be conducted, the purpose of the survey, and the number of United States Government personnel who participated or will participate in the survey.

(c) Upon a request of the chairman of the Committee on International Relations of the House of Representatives or the chairman of the Committee on Foreign Relations of the Senate, the President shall submit to that committee copies of security assistance surveys conducted by United States Government personnel.

(d) As used in this section, the term "security assistance surveys" means any survey or study conducted in a foreign country by United States Government personnel for the purpose of assessing the needs of that country for security assistance, and includes defense requirement surveys, site surveys, general surveys or studies, and engineering assessment surveys.

**Sec. 27.<sup>9</sup> Authority of President to Enter into Cooperative Projects with Friendly Foreign Countries.**—(a) The President may enter into a cooperative project agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization.

(b) As used in this section—

(1) the term "cooperative project" in the case of an agreement with the North Atlantic Treaty Organization or with one or more member countries of that Organization, means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to further the objectives of standardization, rationalization, and interoperability of the armed forces of North Atlantic Treaty Organization member countries forces and which provides—

(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in another member country of a defense article jointly developed in accordance with subparagraph (A); or

(C) for procurement by the United States of a defense article or defense service from another member country or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization;

(2) the term "cooperative project", in the case of an agreement entered into under subsection (j), means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to enhance the ongoing multinational effort of the participants to improve the con-

<sup>9</sup>22 U.S.C. 2767.

ventional defense capabilities of the participants and which provides—

(A) for one or more of the other participants to share with the United States the costs of research on and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(B) for concurrent production in the United States and in the country of another participant of a defense article jointly developed in accordance with subparagraph (A); or

(C) for procurement by the United States of a defense article or defense service from another participant to the agreement; and

(3) the term "other participant" means a participant in a cooperative project other than the United States.

(c) Each agreement for a cooperative project shall provide that the United States and each of the other participants will contribute to the cooperative project its equitable share of the full cost of such cooperative project and will receive an equitable share of the results of such cooperative project. The full costs of such cooperative project shall include overhead costs, administrative costs, and costs of claims. The United States and the other participants may contribute their equitable shares of the full cost of such cooperative project in funds or in defense articles or defense services needed for such cooperative project. Military assistance and financing received from the United States Government may not be used by any other participant to provide its share of the cost of such cooperative project. Such agreements shall provide that no requirement shall be imposed by a participant for worksharing or other industrial or commercial compensation in connection with such agreement that is not in accordance with such agreement.

(d) The President may enter into contracts or incur other obligations for a cooperative project on behalf of the other participants, without charge to any appropriation or contract authorization, if each of the other participants in the cooperative project agrees (1) to pay its equitable share of the contract or other obligation, and (2) to make such funds available in such amounts and at such times as may be required by the contract or other obligation and to pay any damages and costs that may accrue from the performance of or cancellation of the contract or other obligation in advance of the time such payments, damages, or costs are due.

(e)(1) For those cooperative projects entered into on or after the effective date of the International Security and Development Cooperation Act of 1985, the President may reduce or waive the charge or charges which would otherwise be considered appropriate under section 21(e) of this Act in connection with sales under sections 21 and 22 of this Act when such sales are made as part of such cooperative project, if the other participants agree to reduce or waive corresponding charges.

(2) Notwithstanding provisions of section 21(e)(1)(A) and section 43(b) of this Act, administrative surcharges shall not be increased on other sales made under this Act in order to compensate for reductions or waivers of such surcharges under this section. Funds received pursuant to such other sales shall not be available to reimburse the costs incurred by the United States Government for

which reduction or waiver is approved by the President under this section.

(f) Not less than 30 days before a cooperative project agreement is signed on behalf of the United States, the President shall transmit to the Speaker of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, and the chairman of the Committee on Armed Services of the Senate, a numbered certification with respect to such proposed agreement, setting forth—

(1) a detailed description of the cooperative project with respect to which the certification is made;

(2) an estimate of the quantity of the defense articles expected to be produced in furtherance of such cooperative project;

(3) an estimate of the full cost of the cooperative project, with an estimate of the part of the full cost to be incurred by the United States Government, including an estimate of the costs as a result of waivers of section 21(e)(1)(A) and 43(b) of this Act, for its participation in such cooperative project and an estimate of that part of the full costs to be incurred by the other participants;

(4) an estimate of the dollar value of the funds to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(5) a description of the defense articles and defense services expected to be contributed by the United States and each of the other participants on behalf of such cooperative project;

(6) a statement of the foreign policy and national security benefits anticipated to be derived from such cooperative project; and

(7) to the extent known, whether it is likely that prime contracts will be awarded to particular prime contractors or that subcontracts will be awarded to particular subcontractors to comply with the proposed agreement.

(g) In the case of a cooperative project with a North Atlantic Treaty Organization country, section 36(b) of this Act shall not apply to sales made under section 21 or 22 of this Act and to production and exports made pursuant to cooperative projects under this section, and section 36(c) of this Act shall not apply to the issuance of licenses or other approvals under section 38 of this Act, if such sales are made, such production and exports ensue, or such licenses or approvals are issued, as part of a cooperative project.

(h) The authority under this section is in addition to the authority under sections 21 and 22 of this Act and under any other provision of law.

(i)(1) With the approval of the Secretary of State and the Secretary of Defense, a cooperative agreement which was entered into by the United States before the effective date of the amendment to this section made by the International Security and Development Cooperation Act of 1985 and which meets the requirements of this section as so amended may be treated on and after such date as having been made under this section as so amended.

(2) Notwithstanding the amendment made to this section made by the International Security and Development Cooperation Act of

1985, projects entered into under the authority of this section before the effective date of that amendment may be carried through to conclusion in accordance with the terms of this section as in effect immediately before the effective date of that amendment.

(j) (1) The President may enter into a cooperative project agreement with any friendly foreign country not a member of the North Atlantic Treaty Organization under the same general terms and conditions as the President is authorized to enter into such an agreement with one or more member countries of the North Atlantic Treaty Organization if the President determines that the cooperative project agreement with such country would be in the foreign policy or national security interests of the United States.

(2) Not later than January 1 of each year, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs of the House of Representatives a report specifying (A) the countries eligible for participation in such a cooperative project agreement under this subsection, and (B) the criteria used to determine the eligibility of such countries.

**Sec. 28.<sup>10</sup> Reports on Price and Availability Estimates.**—(a) The President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, within fifteen days after the end of each calendar quarter, a report listing each price and availability estimate provided by the United States Government during such quarter to a foreign country with respect to a possible sale under this Act of major defense equipment for \$7,000,000 or more, of any other defense articles or defense services for \$25,000,000 or more, or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale). Each such listing shall specify the name of the country to which the estimate was provided, the defense articles or services involved, the quantity involved, and the price estimate provided.

(b) Such reports shall also list each request received by the United States Government from a foreign country, during the quarter in question, for the issuance of a letter of offer to sell defense articles or defense services if (1) the proposed sale has not been the subject of a listing pursuant to subsection (a) of this section, and (2) the request involves a proposed sale of major defense equipment for \$7,000,000 or more, of any other defense articles or defense services for \$25,000,000 or more, or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale). Each such listing shall include the name of the country making the request, the date of the request, the defense articles or services involved, the quantity involved, and the price and availability terms requested.

\* \* \* \* \*

<sup>10</sup> 22 U.S.C. 2768.

## E. Export-Import Bank Act of 1945

Partial text of Public Law 79-173 [H.R. 3771], 59 Stat. 526, approved July 31, 1945, as amended

AN ACT To provide for increasing the lending authority of the Export-Import Bank of the United States, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Export-Import Bank Act of 1945."

SEC. 2.<sup>1</sup> (a) \* \* \*

(b) \* \* \*

(6)(A) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country.

(B) Subparagraph (A) shall not apply to any sale of defense articles or services if—

(i) the Bank is requested to provide a guarantee or insurance for the sale;

(ii) the President determines that the defense articles or services are being sold primarily for anti-narcotics purposes;

(iii) section 490(e) of the Foreign Assistance Act of 1961 does not apply with respect to the purchasing country; and

(iv) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States; and

(v) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 5 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles or services.

(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

(i) be consistent with the anti-narcotics policy of the United States;

(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (defined in section 481(e) of the Foreign Assistance Act of 1961); and

(iii) be made to a country with a democratic form of government.

(D)(i) The Board shall not give approval to guarantee or insure a sale of defense articles or services unless—

(I) the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance;

<sup>1</sup> 12 U.S.C. 635.

(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and

(III) such determinations have been reported to the Speaker and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, not less than 25 days of continuous session of the Congress before the date of such approval.

(ii) For purposes of clause (i), continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25-day period referred to in such clause.

(E) The provision of a guarantee or insurance under subparagraph (B) shall be deemed to be the provision of security assistance for purposes of section 502B of the Foreign Assistance Act of 1961 (relating to governments which engage in a consistent pattern of gross violations of international recognized human rights).

(F) To the extent that defense articles or services for which a guarantee or insurance is provided under subparagraph (B) are used for a purpose other than anti-narcotics purposes, they may be used only for those purposes for which defense articles and defense services sold under the Arms Export Control Act (relating to the foreign military sales program) may be used under section 4 of such Act.

(G) As used in subparagraphs (B), (C), (D), and (F), the term "defense articles or services" means articles, services, and related technical data that are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act and listed on the United States Munitions List (part 121 of title 22 of the Code of Federal Regulations).

(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use or described in subparagraph (I)(i). Such report shall include a description of each of the transactions and the justification for the Bank's actions.

(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

(I) the Bank determines that—

(aa) the defense articles or services are nonlethal; and



(bb) the primary end use of the defense articles or services will be for civilian purposes; and

(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.

\* \* \* \* \*

F. FOREIGN OPERATIONS, EXPORT FINANCING, AND  
RELATED PROGRAMS APPROPRIATIONS ACT, 1995

Partial text of Public Law 103-306 [H.R. 4426], 108 Stat. 1608, approved  
August 23, 1994

AN ACT Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and making supplemental appropriations for such programs for the fiscal year ending September 30, 1994, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1995, and for other purposes, namely:

\* \* \* \* \*

TITLE II—BILATERAL ECONOMIC ASSISTANCE

\* \* \* \* \*

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, \$105,000,000: Provided, That during fiscal year 1995, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive non-lethal excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations.

\* \* \* \* \*

TITLE III—MILITARY ASSISTANCE

\* \* \* \* \*

FOREIGN MILITARY FINANCING PROGRAM

Provided further, That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Liberia, Guatemala, and Peru: Provided further, That none of the funds appropriated under this heading may be made available for Colombia or Bolivia until the Secretary of State certifies that such funds will be used by such country primarily for counternarcotics activities....

\* \* \* \* \*

## TITLE V—GENERAL PROVISIONS

\* \* \* \* \*

## MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

## TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

\* \* \* \* \*

## LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

\* \* \* \* \*

## NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Development Assistance Fund", "Population, Development Assistance", "Development Fund for Africa", "International organizations and programs", "Trade and Development Agency", "International narcotics control", "Assistance for Eastern Europe and the Baltic States", "Assistance for the New Independent States of the Former Soviet Union", "Economic Support Fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program",

"International military education and training", "Military-to-Military Contact Program", "Inter-American Foundation", "African Development Foundation", "Peace Corps" or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: Provided, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: Provided further, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: Provided further, That the requirements of this section or any similar provision of this Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations may be waived if failure to do so would pose a substantial risk to human health or welfare: Provided further, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: Provided further, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

\* \* \* \* \*

#### ANTI-NARCOTICS ACTIVITIES

SEC. 549. (a) Of the funds appropriated by this Act under the heading "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean in accordance with the provisions of section 534 of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(b) Of the funds appropriated by this Act under the heading "Economic Support Fund", notwithstanding section 660 of the Foreign Assistance Act of 1961, up to \$3,000,000 may be made available, subject to the regular notification procedures of the Committees on Appropriations, for technical assistance, training, and commodities with the objective of creating a professional civilian police

force for Panama, and for programs to improve penal institutions and the rehabilitation of offenders in Panama (which programs may be conducted other than through multilateral or regional institutions), except that such technical assistance shall not include more than \$1,000,000 for the procurement of equipment for law enforcement purposes, and shall not include lethal equipment.

(c) Funds made available pursuant to this section may be made available notwithstanding the third sentence of section 534(e) of the Foreign Assistance Act of 1961. Funds made available pursuant to subsection (a) for Bolivia, Colombia and Peru and subsection (b) may be made available notwithstanding section 534(c) and the second sentence of section 534(e) of the Foreign Assistance Act of 1961.

\* \* \* \* \*

#### SPECIAL DEBT RELIEF FOR THE POOREST

SEC. 561. (a) Authority To Reduce Debt. - The President may reduce amounts owed to the United States (or any agency of the United States) by an eligible country as a result of—

(1) guarantees issued under sections 221 and 222 of the Foreign Assistance Act of 1961; or

(2) credits extended or guarantees issued under the Arms Export Control Act.

(b) Limitations.—

(1) The authority provided by subsection (a) may be exercised only to implement multilateral official debt relief and referendum agreements, commonly referred to as "Paris Club Agreed Minutes".

(2) The authority provided by subsection (a) may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

(3) The authority provided by subsection (a) may be exercised only with respect to countries with heavy debt burdens that are eligible to borrow from the International Development Association, but not from the International Bank for Reconstruction and Development, commonly referred to as "IDA-only" countries.

(c) Conditions. - The authority provided by subsection (a) may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters;

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights; and

(5) is not ineligible for assistance because of the application of section 527 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

(d) Availability of Funds.—The authority provided by subsection (a) may be used only with regard to funds appropriated by this Act under the heading "Debt Restructuring".

(e) **Certain Prohibitions Inapplicable.** - A reduction of debt pursuant to subsection (a) shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

## II. ASSISTANCE-RELATED STATUTES

### A. The International Narcotics Control Corrections Act of 1994

Partial text of Public Law 103-447 [H.R. 5246], 108 Stat 4691, approved November 2, 1994

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SEC. 1. SHORT TITLE.

This Act may be cited as the "International Narcotics Control Corrections Act of 1994."

#### TITLE I—INTERNATIONAL NARCOTICS CONTROL

\* \* \* \* \*

#### SEC. 104. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEAR 1995 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

(a) Exemption.—For fiscal year 1995, section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to—

(1) transfers of excess defense articles under section 517 of that Act (22 U.S.C. 2421k);

(2) funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763) that are used for assistance provided for narcotics-related purposes; or

(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following) that is provided for narcotics-related purposes.

(b) Notification to Congress.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees (as defined in section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

(c) Coordination With International Narcotics Control Assistance Program.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.)

#### SEC. 105. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For fiscal year 1995, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 may be provided notwithstanding—

ing any other provision of law that restricts assistance to foreign countries (other than section 490(e) of that Act (22 U.S.C. 2291j(e)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

#### **SEC. 106. AUTHORITY FOR ANTICRIME ASSISTANCE.**

(a) Policy.—International criminal activities, including international narcotics trafficking, money laundering, smuggling, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international crime activities should be a priority for the United States.

##### **(b) Authority.—**

(1) In general.—For fiscal year 1995, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the prevention and suppression of international criminal activities.

(2) Waiver of prohibition of police training.—Section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to assistance furnished under paragraph (1).

#### **SEC. 107. ASSISTANCE TO DRUG TRAFFICKERS**

The President shall take all reasonable steps provided by law to ensure that the immediate relatives of any individual described in section 487(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291f(a)), and the business partners of any such individual or of any entity described in such section, are not permitted entry into the United States, consistent with the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)

\* \* \* \* \*



## **B. International Narcotics Control Act of 1990**

**Partial text of Public Law 101-623 [H.R. 5567], 104 Stat. 3350, approved  
November 21, 1990**

AN ACT To authorize international narcotics control activities for fiscal year 1991,  
and for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

\* \* \* \* \*

### **SEC. 6.<sup>1</sup> ASSISTANCE FOR AGRICULTURAL AND INDUSTRIAL ALTERNATIVES TO NARCOTICS PRODUCTION.**

(a) **WAIVER OF RESTRICTIONS.**—For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide assistance to a foreign country under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund) to promote the production, processing, or the marketing of products or commodities, notwithstanding any other provision of law that would otherwise prohibit the provision of assistance to promote the production, processing, or the marketing of such products or commodities.

(b) **EFFECTIVE DATE.**—Subsection (a) applies with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

\* \* \* \* \*

### **SEC. 12. CONGRESSIONAL REVIEW OF NARCOTICS-RELATED ASSISTANCE FOR AFGHANISTAN.**

Not less than 15 days before obligating funds made available for any fiscal year to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act for any assistance for Afghanistan that has narcotics control as one of its purposes, the President shall notify the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) in accordance with the procedures applicable to reprogramming notifications under that section.

### **SEC. 13.<sup>2</sup> TRAINING OF HOST COUNTRY PILOTS.**

(a) **INSTRUCTION PROGRAM.**—Not less than 90 days after the date of enactment of this Act, the President shall implement, under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance), a detailed program of instruction to train host country pi-

<sup>1</sup>22 U.S.C. 2151x-1.

<sup>2</sup>22 U.S.C. 2291h.

lots, and other flight crew members, to fly host country aircraft involved in counternarcotics efforts in Andean countries. Such program shall be designed to eliminate direct participation of the United States Government (including participation through the use of either direct hire or contract personnel) in the operation of such aircraft.

(b) **REQUIREMENT FOR REPLACEMENT OF UNITED STATES GOVERNMENT PILOTS BY HOST COUNTRY PILOTS.**—The President shall ensure that, within 18 months after the date of enactment of this Act, flight crews composed of host country personnel replace all United States Government pilots and other flight crew members (including both direct hire or contract personnel) for host country aircraft involved in airborne counternarcotics operations in the Andean countries.

(c) **AIRCRAFT SUBJECT TO REQUIREMENTS.**—As used in this section, the term “host country aircraft” means any aircraft made available to an Andean country by the United States Government under chapter 8 of part I of the Foreign Assistance Act of 1961, or any other provision of law, for use by that country for narcotics-related purposes.

\* \* \* \* \*

#### **SEC. 17. DEBT-FOR-DRUGS EXCHANGES.**

(a) **FINDINGS.**—The Congress finds that—

(1) section 10 of the International Narcotics Control Act of 1989 gives the President the authority to provide relief with respect to certain debt owed to the United States Government by the Government of Bolivia, the Government of Colombia, or the Government of Peru if the President determines that that country is implementing programs to reduce the flow of cocaine to the United States;

(2) President Bush has endorsed the concept of debt relief with respect to debt owed by Latin American governments to the United States Government in his “Enterprise for Americans Initiative”, announced June 27, 1990; and

(3) President Bush has proposed forgiveness of foreign military sales debt owed by the Government of Egypt to the United States Government.

(b) **USE OF DEBT-FOR-DRUGS AUTHORITY.**—The Congress urges the President to use the authority provided in section 10 of the International Narcotics Control Act of 1989 to forgive debt owed to the United States Government by the Government of Bolivia, the Government of Colombia, and the Government of Peru.

## C. International Narcotics Control Act of 1989

Partial text of Public Law 101-231 [H.R. 3611], 103 Stat. 1954, approved  
December 13, 1989, as amended

AN ACT To combat international narcotics production and trafficking.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

\* \* \* \* \*

### SEC. 3.<sup>1</sup> MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.

(a) PURPOSES OF ASSISTANCE.—Assistance provided under this section shall be designed to—

(1) enhance the ability of the Government of Bolivia, the Government of Colombia, and the Government of Peru to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with those governments by offering concrete assistance in this area of great mutual concern; and

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking.

(b) MILITARY ASSISTANCE AND TRAINING.—Subject to the requirements of this section, the President is authorized to use the funds made available to carry out this section to provide defense articles, defense services, and international military education and training to Bolivia, Colombia, and Peru. Such assistance shall be provided under the authorities of section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military financing program) and chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following; relating to international military education and training). Such assistance is in addition to any other such assistance made available to those countries.

(c) LAW ENFORCEMENT TRAINING.—

(1) AUTHORIZED FORMS AND RECIPIENTS OF ASSISTANCE.—Subject to paragraph (2), up to \$6,500,000 of the funds made available to carry out this section may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on law enforcement assistance)—

(A) to provide to law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement by the Government of Bolivia, the Government of Colombia, or the Government of Peru, education and training in the operation and maintenance of equip-

<sup>1</sup>22 U.S.C. 2291 note.

ment used in narcotics control interdiction and eradication efforts; and

(B) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(2) OFFSETTING REDUCTION.—The amount that may be used under paragraph (1) shall be reduced by the amount of any assistance provided for Bolivia, Colombia, or Peru under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, for the purposes specified in subparagraph (A) or (B) of paragraph (1).

(d) EQUIPMENT FOR LAW ENFORCEMENT UNITS.—

(1) AUTHORIZED FORMS AND RECIPIENTS OF ASSISTANCE.—Subject to paragraph (2), up to \$12,500,000 of the funds made available to carry out this section may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on law enforcement assistance), for the procurement of defense articles for use in narcotics control, eradication, and interdiction efforts by law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(2) OFFSETTING REDUCTION.—The amount that may be used under paragraph (1) shall be reduced by the amount of any assistance provided for Bolivia, Colombia, or Peru under the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, for the procurement of weapons or ammunition in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961.

(e) CONDITIONS OF ELIGIBILITY.—Assistance may be provided under this section to Bolivia, Colombia, or Peru only—

(1) so long as that country has a democratic government; and

(2) the law enforcement agencies of that country do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1)).

(f) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to this section, the President shall transmit to the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) a written notification in accordance with the procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(g) REPORTS ON HUMAN RIGHTS SITUATION.—Section 502B(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(c); relating to

country-specific human rights reports upon the request of the foreign affairs committees) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

(h) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$125,000,000 for fiscal year 1990 to carry out this section, which amount is authorized to be made available until expended.

(j) CERTAIN FUNDING LIMITATIONS.—The dollar limitations specified in subsections (c)(1) and (d)(1) shall not apply after the date of enactment of this subsection.

\* \* \* \* \*

## SEC. 7. MEXICO.

(a) LIMITATION ON NARCOTICS CONTROL ASSISTANCE.—

(1) LIMITATION.—Except as provided in paragraph (2), not more than \$15,000,000 of the amounts made available for fiscal year 1990 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance) may be made available for Mexico.

(2) PROCEDURE FOR ADDITIONAL ASSISTANCE.—Assistance in excess of the amount specified in paragraph (1) may be made available for Mexico only if the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) are notified at least 15 days in advance in accordance with the procedures applicable to reprogrammings under that section.

(b) SENATE POLICY TOWARD THE CONTROL OF ILLEGAL DRUGS IN MEXICO.—

(1) FINDINGS.—The Senate finds that—

(A) the Foreign Assistance Act of 1961 requires, except in cases of vital national interest, that all countries determined to be a major illicit drug producing country or a major drug-transit country must be “cooperating fully” with United States antinarcotics activities in order to continue receiving various forms of United States foreign assistance;

(B) relations between the United States and Mexico have suffered since the 1985 kidnapping and murder of Drug Enforcement Administration agent Enrique Camarena and the 1986 torture of DEA agent Victor Cortez;

(C) testimony before the Senate dating to 1986 has indicated that high-ranking Mexican government, military, and law enforcement officials have been involved in illegal narcotics operations, including narcotics trafficking operations into the United States;

(D) Mexico has been determined to be the primary producer of marijuana and heroin entering the United States

and the transit point for up to 50 percent of the cocaine being smuggled into this country;

(E) there have been three drug-related mass murders involving more than 30 victims along the southwest border in recent months involving Mexican drug trafficking organizations;

(F) the United States continues to seek, with Mexican cooperation, hot pursuit and overflight authority for United States law enforcement agencies, access to bank records, verification of eradication figures, information on those who have been tried, charged, sentenced, and served time for narcotics-related crimes, and extradition of criminal figures;

(G) there was sworn in a new president and Government of Mexico on December 1, 1988, creating a new era of opportunity for increased cooperation and mutual friendship;

(H) the new President of Mexico, Carlos Salinas de Gortari, has indicated a strong willingness to expand and improve Mexico's antinarcotics activities;

(I) the Chief of the Mexico City Police Investigative Service, Miguel Nazar Haro, who is under indictment in the United States, has been fired;

(J) the Government of Mexico has arrested Miguel Angel Felix-Gallardo, one of the most notorious drug trafficking figures in Mexico;

(K) Mexican officials have for the first time conceded that corrupt Mexican officials, including law enforcement, government, and military officials, have previously protected Mr. Gallardo; and

(L) criminal charges of electoral fraud against the mayor of Hermosillo, Carlos Robles, and homicide and arms charges against the head of Mexico's Oil Workers Union, Joaquin Hernandez Galicia, have been filed.

(2) SENATE POLICY.—It is the sense of the Senate that—

(A) President Salinas should be supported in his expressed willingness to end the narcotics-related corruption that has permeated the Government of Mexico in the past;

(B) Mexico should conclude the prosecution of the murders of Drug Enforcement Administration agent Camarena, the perpetrators of torture against DEA agent Cortez, and make progress in the prosecution of Felix-Gallardo;

(C) Mexico should demonstrate its commitment to cooperating fully in antinarcotics activities by entering into negotiations with the United States on —

(i) joint overflight and hot pursuit operations, involving Mexican law enforcement officials traveling on United States interdiction aircraft with Mexican officers having responsibility for actual arrests of suspects;

(ii) participation of United States law enforcement agencies in air surveillance flights for interdiction efforts and joint United States-Mexico border enforcement and interdiction operations;

(iii) United States requests for access to bank records to assist in carrying out narcotics-related investigations; and

(iv) United States requests for verification of eradication statistics, including ground verification; and

(D) the people of Mexico should be supported in their efforts to rid their country of illicit narcotics, bribery and corruption, and electoral fraud.

\* \* \* \* \*

#### SEC. 10.<sup>2</sup> DEBT-FOR-DRUGS EXCHANGES.

(a) **AUTHORITY.**—The President may release Bolivia, Colombia, or Peru from its obligation to make payments to the United States Government of principal and interest on account of a loan made to that country under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to foreign assistance programs) or credits extended for that country under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military sales credits) if the President determines that that country is implementing programs to reduce the flow of cocaine to the United State in accordance with a formal bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs.

(b) **CONGRESSIONAL REVIEW OF AGREEMENTS.**—The President shall submit any such agreement with Bolivia, Colombia, or Peru to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate at least 15 days before exercising the authority of section (a) with respect to that country.

(c) **COORDINATION WITH MULTILATERAL DEBT RELIEF ACTIVITIES.**—The authority provided in subsection (a) shall be exercised in coordination with multilateral debt relief activities.

(d) **EFFECTIVE DATE.**—Subsection (a) takes effect on October 1, 1990.

\* \* \* \* \*

<sup>2</sup> 22 U.S.C. 2291 note.

## D. International Narcotics Control Act of 1986

Partial text of Public Law 99-570 [Anti-Drug Abuse Act of 1986, H.R. 5484],  
100 Stat. 3207-60, approved October 27, 1986, as amended

AN ACT To strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

\* \* \* \* \*

### TITLE II—INTERNATIONAL NARCOTICS CONTROL

#### SECTION 2001.<sup>1</sup> SHORT TITLE.

This title may be cited as the "International Narcotics Control Act of 1986".

\* \* \* \* \*

#### SEC. 2018.<sup>2</sup> MULTILATERAL DEVELOPMENT BANK ASSISTANCE FOR DRUG ERADICATION AND CROP SUBSTITUTION PROGRAMS.

(a) MDB ASSISTANCE FOR DEVELOPMENT AND IMPLEMENTATION OF DRUG ERADICATION PROGRAM.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that all possible assistance be provided to each major illicit drug producing country for the development and implementation of a drug eradication program, including technical assistance, assistance in conducting feasibility studies and economic analyses, and assistance for alternate economic activities.

(b) INCREASES IN MULTILATERAL DEVELOPMENT BANK LENDING FOR CROP SUBSTITUTION PROJECTS.—The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to initiate discussions with other Directors of their respective banks and to propose that each such bank increase the amount of lending by such bank for crop substitution programs which will provide an economic alternative for the cultivation or production of illicit narcotic drugs or other controlled substances in major illicit drug producing countries, to the extent such countries develop and maintain adequate drug eradication programs.

<sup>1</sup> 22 U.S.C. 2151 note.

<sup>2</sup> 22 U.S.C. 2291 note.



(c) NATIONAL ADVISORY COUNCIL REPORT.—The Secretary of the Treasury shall include in the annual report to the Congress by the National Advisory Council on International Monetary and Financial Policies a detailed accounting of the manner in which and the extent to which the provisions of this section have been carried out.

(d) DEFINITIONS.—For purposes of this section—

(1) MULTILATERAL DEVELOPMENT BANK.—The term “multilateral development bank” means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, and the Asian Development Bank.

(2) MAJOR ILLICIT DRUG PRODUCING COUNTRY.—The term “major illicit drug producing country” has the meaning provided in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 229(i)(2)).

(3) NARCOTIC DRUG AND CONTROLLED SUBSTANCE.—The terms “narcotic drug” and “controlled substance” have the meanings given to such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

\* \* \* \* \*

## **E. Caribbean Basin Economic Recovery Act**

Partial text of Public Law 98-67 [H.R. 2973], 97 Stat. 369, approved August 5, 1983, as amended

AN ACT To promote economic revitalization and facilitate expansion of economic opportunities in the Caribbean Basin region, to provide for backup withholding of tax from interest and dividends, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

\* \* \* \* \*

### **TITLE II—CARIBBEAN BASIN INITIATIVE**

#### **SEC. 201. SHORT TITLE.**

This title may be cited as the "Caribbean Basin Economic Recovery Act".

#### **SUBTITLE A—DUTY-FREE TREATMENT**

#### **SEC. 211.<sup>1</sup> AUTHORITY TO GRANT DUTY-FREE TREATMENT.**

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this title.

#### **SEC. 212.<sup>2</sup> BENEFICIARY COUNTRY.**

(a)(1) For purposes of this title—

(A) The term "beneficiary country" means any country listed in subsection (b) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title. Before the President designates any country as a beneficiary country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(B) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(C) The term "HTS" means Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(2) If the President has designated any country as a beneficiary country for purposes of this title, he shall not terminate such designation (either by issuing a proclamation for that purpose or by issuing a proclamation which has the effect of terminating such designation) unless, at least sixty days before such termination, he has notified the House of Representatives and the Senate and has

<sup>1</sup> 19 U.S.C. 2701.

<sup>2</sup> 19 U.S.C. 2702.

notified such country of his intention to terminate such designation, together with the considerations entering into such decision.

(b) In designating countries as "beneficiary countries" under this title the President shall consider only the following countries and territories or successor political entities:

Anguilla  
Antigua and Barbuda  
Bahamas, The  
Barbados  
Belize  
Cayman Islands  
Costa Rica  
Dominica  
Dominican Republic  
El Salvador  
Grenada  
Guatemala  
Guyana  
Haiti

Honduras  
Jamaica  
Montserrat  
Netherlands Antilles  
Nicaragua  
Panama  
Saint Lucia  
Saint Vincent and the Grenadines  
Suriname  
Trinidad and Tobago  
Saint Christopher-Nevis  
Turks and Caicos Islands  
Virgin Islands, British

In addition, the President shall not designate any country a beneficiary country under this title—

(1) if such country is a Communist country;

(2) if such country—

(A) has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify—

(i) any existing contract or agreement with, or

(ii) any patent, trademark, or other intellectual property of,

a United States citizen or a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration

under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 per centum or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) In determining whether to designate any country a beneficiary country under this title, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to promote its own economic development;

(8) whether or not such country has taken or is taking steps to afford workers in that country (including any designated zone in that country) internationally recognized worker rights.

(9) the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) the extent to which such country prohibits its nationals from engaging in the broadcasts of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent; and

(11) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this title.

(d) General headnote 3(a) of the TSUS (relating to products of the insular possessions) is amended by adding at the end thereof the following paragraph:

"(iv) Subject to the provisions in section 213 of the Caribbean Basin Economic Recovery Act, articles which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such articles when they are imported from a beneficiary country under such Act."

(e)(1) The President may, after the requirements of subsection (a)(2) and paragraph (2) have been met—

(A) withdraw or suspend the designation of any country as a beneficiary country, or

(B) withdraw, suspend, or limit the application of duty-free treatment under this subtitle to any article of any country, if, after such designation, the President determines that as a result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days prior to taking such action.

(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

(i) accept written comments from the public regarding such proposed action,

(ii) hold a public hearing on such proposed action, and

(iii) publish in the Federal Register—

(I) notice of the time and place of such hearing prior to the hearing, and

(II) the time and place at which such written comments will be accepted.

(f) On or before October 1, 1993, and the close of each 3-year period thereafter, the President shall submit to the congress a complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (b) and (c).

**SEC. 213.<sup>3</sup> ELIGIBLE ARTICLES.**

(a)(1) Unless otherwise excluded from eligibility by this title, and subject to section 423 of the Tax Reform Act of 1986, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in a beneficiary country or two or more beneficiary countries, plus (ii) the direct costs of processing operations performed in a beneficiary country or countries is not less than 35 per centum of the appraised value of such article at the time it is entered.

For purposes of determining the percentage referred to in subparagraph (B), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the customs territory of the United States (other than the Commonwealth of Puerto Rico) is included with respect to an article to which this paragraph applies, an amount not to exceed 15 per centum of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone—

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(3) As used in this subsection, the phrase "direct costs of processing operations" includes, but is not limited to—

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of

<sup>3</sup> 19 U.S.C. 2703.

doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(4) Notwithstanding section 311 of the Tariff Act of 1930, the products of a beneficiary country which are imported directly from any beneficiary country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).

(5) The duty-free treatment provided under this chapter shall apply to an article (other than an article listed in subsection (b)) which is the growth, product, or manufacture of the Commonwealth of Puerto Rico if—

(A) the article is imported directly from the beneficiary country into the customs territory of the United States,

(B) the article was by any means advanced in value or improved in condition in a beneficiary country, and

(C) if any materials are added to the article in a beneficiary country, such materials are a product of a beneficiary country or the United States.

(b) The duty-free treatment provided under this title shall not apply to—

(1) textile and apparel articles which are subject to textile agreements;

(2) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

(3) tuna, prepared or preserved in any manner, in airtight containers;

(4) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States; or

(5) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply.

(c)(1) As used in this subsection—

(A) The term "sugar and beef products" means—

(i) sugars, sirups, and molasses provided for in subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States, and

(ii) articles of beef or veal, however provided for in chapters 2 and 16 of the Harmonized Tariff Schedule of the United States.

(B) The term "Plan" means a stable food production plan that consists of measures and proposals designed to ensure

that the present level of food production in, and the nutritional level of the population of, a beneficiary country will not be adversely affected by changes in land use and land ownership that will result if increased production of sugar and beef products is undertaken in response to the duty-free treatment extended under this title to such products. A Plan must specify such facts regarding, and such proposed actions by, a beneficiary country as the President deems necessary for purposes of carrying out this subsection, including but not limited to—

(i) the current levels of food production and nutritional health of the population;

(ii) current level of production and export of sugar and beef products;

(iii) expected increases in production and export of sugar and beef products as a result of the duty-free access to the United States market provided under this title;

(iv) measures to be taken to ensure that the expanded production of those products because of such duty-free access will not occur at the expense of stable food production; and

(v) proposals for a system to monitor the impact of such duty-free access on stable food production and land use and land ownership patterns.

(2) Duty-free treatment extended under this title to sugar and beef products that are the product of a beneficiary country shall be suspended by the President under this subsection if—

(A) the beneficiary country, within the ninety-day period beginning on the date of its designation as such a country under section 212, does not submit a Plan to the President for evaluation;

(B) on the basis of his evaluation, the President determines that the Plan of a beneficiary country does not meet the criteria set forth in paragraph (1)(B); or

(C) as a result of the monitoring of the operation of the Plan under paragraph (5), the President determines that a beneficiary country is not making a good faith effort to implement its Plan, or that the measures and proposals in the Plan, although being implemented, are not achieving their purposes.

(3) Before the President suspends duty-free treatment by reason of paragraph (2) (A) or (C) to the sugar and beef products of a beneficiary country, he must offer to enter into consultation with the beneficiary country for purposes of formulating appropriate remedial action which may be taken by that country to avoid such suspension. If the beneficiary country thereafter enters into consultation within a reasonable time and undertakes to formulate remedial action in good faith, the President shall withhold the suspension of duty-free treatment on the condition that the remedial action agreed upon be appropriately implemented by that country.

(4) The President shall monitor on a biennial basis the operation of the Plans implemented by beneficiary countries, and shall submit a written report to Congress by March 15 following the close of each biennium, that—



(A) specifies the extent to which each Plan, and remedial actions, if any, agreed upon under paragraph (4), have been implemented; and

(B) evaluates the results of such implementation.

(5) The President shall terminate any suspension of duty-free treatment imposed under this subsection if he determines that the beneficiary country has taken appropriate action to remedy the factors on which the suspension was based.

(d) For such period as there is in effect a proclamation issued by the President pursuant to the authority vested in him by section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to protect a price-support program for sugar beets and sugar cane, the importation and duty-free treatment of sugars, sirups, and molasses classified under subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States shall be governed in the following manner:

(1)(A) For all beneficiary countries, except those subject to subparagraph (B) and paragraph (2), duty-free treatment shall be provided in the same manner as it is provided pursuant to title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.), at the time of the effective date of this title; except that the President upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the value limitation provided for in section 504(c)(1) of the Trade Act of 1974 on the duty-free treatment afforded to beneficiary countries under this section if he finds that such adjustment will not interfere with the price support program for sugar beets and sugar cane and is appropriate in light of market conditions.

(B) As an alternative to subparagraph (A), the President may at the request of a beneficiary country not subject to paragraph (2) and upon the recommendation of the Secretary of Agriculture, elect to permit sugar, sirups, and molasses from that country to enter duty-free during a calendar year subject to quantitative limitations to be established by the President on the quantity of sugar, sirups, and molasses entered from that country.

(2) For the following countries whose exports of sugar, sirups, and molasses in 1981 were not eligible for duty-free treatment because of the operation of section 504(c) of the Trade Act of 1974, the quantity of sugar, sirups, and molasses which may be entered in any calendar year shall be limited to no more than the quantity specified below:

Metric tons:

Dominican Republic .....	780,000
Guatemala .....	210,000
Panama .....	160,000

Such sugar, sirups, and molasses shall be admitted free of duty, except as provided for in paragraph (3).

(3) The President, upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the quantitative limitations imposed under paragraph (1)(B) or (2) if he determines such action will not interfere with the price support program for sugar beets and sugar cane and is appropriate in

light of market conditions. The President, upon the recommendation of the Secretary of Agriculture, may suspend the duty-free treatment for all or part of the quantity of sugar, sirups, and molasses permitted to be entered by paragraphs (1)(B) and (2) if such action is necessary to protect the price-support program for sugar beets and sugar cane.

(4) Any quantitative limitation imposed on a beneficiary country under paragraphs (1)(B) and (2) shall apply only to the extent that such limitation permits a lesser quantity of sugar, sirups, and molasses to be entered from that country than the quantity that would be permitted to be entered under any other provision of law.

(e)(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is provided under chapter 1 of title II of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(2) In any report by the International Trade Commission to the President under section 202(f) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries.

(3) For purposes of subsections section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation which provides solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be taken under section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 202(b) of the Trade Act of 1974, determines in the course of its investigation under such section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(5)(A) Any action taken under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment pursuant to section 101 of this title is proclaimed shall remain in effect until modified or terminated.

(B) If any article is subject to any such action at the time duty-free treatment is proclaimed pursuant to section 211, the President may reduce or terminate the application of such action relief to the importation of such article from beneficiary countries prior to the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of section 203 of the Trade Act of 1974.

(f)(1) If a petition is filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within fourteen days after the filing of a petition under paragraph (1) of this subsection—

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within seven days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease to apply—

(A) upon the taking of action under section 203 of the Trade Act of 1974,

(B) on the day a determination by the President not to take action under section 203 of such Act not to take action becomes final,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection, the term "perishable product" means—

(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;

(B) fresh or chilled vegetables provided for in headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS;

(C) fresh fruit provided for in subheadings 0804.20 through 0810.90 (except citrons of subheading 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS;

(D) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.

(g) No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

(h) (1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that—

(A) are the product of any beneficiary country; and

(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

(B) be implemented in 5 equal annual stages with the first one-fifth of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption of the article on or after January 1, 1992.

(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.

\* \* \* \* \*

## F. International Security and Development Cooperation Act of 1981

Partial text of Public Law 97-113 [S. 1196], 95 Stat. 1519, approved December 29, 1981, as amended

AN ACT To authorize appropriations for the fiscal years 1982 and 1983 for international security and development assistance and for the Peace Corps, to establish the Peace Corps as an autonomous agency, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

\* \* \* \* \*

### TITLE V—OTHER ASSISTANCE PROGRAMS

\* \* \* \* \*

#### INTERNATIONAL NARCOTICS CONTROL

##### Sec. 502. (a)(1) \* \* \*

(2)<sup>1</sup> Assistance provided from funds appropriated, before the enactment of this Act, to carry out section 481 of the Foreign Assistance Act of 1961 may be made available for purposes prohibited by subsection (d) of such section as in effect immediately before the enactment of this subsection.

(3) Funds appropriated for the fiscal year 1980 to carry out section 481 of the Foreign Assistance Act of 1961 which were obligated for assistance for the Republic of Colombia may be used for purposes other than those set forth in section 482(a)(2) of that Act as in effect immediately before the enactment of the International Security and Development Cooperation Act of 1980.

(4) Paragraphs (2) and (3) of this subsection shall apply only to the extent provided in advance in an appropriations Act. For such purpose, the funds described in those paragraphs are authorized to be made available for the purposes specified in those paragraphs.

\* \* \* \* \*

<sup>1</sup>22 U.S.C. 2291 note.

**G. Authorization for the United States to Participate in Asian Development Bank, the Inter-American Development Bank, and the International Development Association**

**1. Asian Development Bank Act**

Partial text of Public Law 89-369 [H.R. 12563], 80 Stat. 71, approved March 16, 1966, as amended

AN ACT To provide for the participation of the United States in the Asian Development Bank.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Asian Development Bank Act".*

**ACCEPTANCE OF MEMBERSHIP**

SEC. 2.<sup>1</sup> The President is hereby authorized to accept membership for the United States in the Asian Development Bank (hereinafter referred to as the "Bank") provided for by the agreement establishing the Bank (hereinafter referred to as the "agreement") deposited in the archives of the United Nations.

SEC. 3.<sup>2</sup> The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank, an alternative for the Governor, and a Director of the Bank.

(b) No person shall be entitled to receive any salary or other compensation from the United States for services as a Governor or Alternate Governor. The Director may, in the discretion of the President, receive such compensation, allowances, and other benefits as, together with those received by him from the Bank, will equal those authorized for a chief of mission under the Foreign Service Act of 1980.

SEC. 4.<sup>3</sup> The policies and operations of the representatives of the United States on the Bank shall be coordinated with other United States policies in such manner as the President shall direct.

(b) \* \* \*

\* \* \* \* \*

SEC. 19.<sup>4</sup> The Secretary of the Treasury shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled sub-

<sup>1</sup>22 U.S.C. 285.

<sup>2</sup>22 U.S.C. 285a.

<sup>3</sup>22 U.S.C. 285b.

<sup>4</sup>22 U.S.C. 285p.

stances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notified the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

\* \* \* \* \*

## 2. Inter-American Development Bank Act

Partial text of Public Law 86-147 [S. 1928], 73 Stat. 299, approved August 7, 1959, as amended

AN ACT To provide for the participation of the United States in the Inter-American Development Bank.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SHORT TITLE

SECTION 1. This Act may be cited as the "Inter-American Development Bank Act".

### ACCEPTANCE OF MEMBERSHIP

SEC. 2.<sup>1</sup> The President is hereby authorized to accept membership for the United States in the Inter-American Development Bank (hereinafter referred to as the Bank), provided for by the agreement establishing the bank (hereinafter referred to as the agreement) deposited in the archives of the Organization of American States.

\* \* \* \* \*

SEC. 22.<sup>2</sup> The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

\* \* \* \* \*

<sup>1</sup>22 U.S.C. 283.

<sup>2</sup>22 U.S.C. 283s.



### 3. International Development Association Act

Partial text of Public Law 86-565 [H.R. 11001], 74 Stat. 293, approved June 30, 1960, as amended

AN ACT To provide for the participation of the United States in the International Development Association.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SHORT TITLE

SECTION 1. This Act may be cited as the "International Development Association Act".

#### ACCEPTANCE OF MEMBERSHIP

SEC. 2.<sup>1</sup> The President is hereby authorized to accept membership for the United States in the International Development Association (hereinafter referred to as the "Association"), provided for by the Articles of Agreement (hereinafter referred to as the "Articles") of the Association deposited in the archives of the International Bank for Reconstruction and Development.

\* \* \* \* \*

SEC. 13.<sup>2</sup> The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development and the International Development Association to vote against any loan or other utilization of the funds of the Bank and the Association for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

\* \* \* \* \*

<sup>1</sup>22 U.S.C. 284.

<sup>2</sup>22 U.S.C. 284k.

#### 4. The International Financial Institutions Act

Partial text of Title XVI of Public Law 95-118, the International Financial Institutions Act, as added by Public Law 103-306 [H.R. 4426], 108 Stat. 1608, approved August 23, 1994.

AN ACT To provide for increased participation by the United States in the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Asian Development Bank and the Asian Development Fund, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

##### SHORT TITLE

SECTION 1. This Act may be cited as the International Financial Institutions Act.

\* \* \* \* \*

##### RESPECT FOR INDIGENOUS PEOPLES

SEC. 1620. The Secretary of the Treasury shall direct the United States Executive Directors of the international financial institutions (as defined in section 1701(c)(2) and the United States representative to the council of the Global Environment Facility administered by the International Bank for Reconstruction and Development to use the voice and vote of the United States to bring about the creation and full implementation of policies designed to promote respect for and full protection of the territorial rights, traditional economies, cultural integrity, traditional knowledge and human rights of indigenous peoples.

### III. ENFORCEMENT RELATED STATUTES

#### A. Controlled Substances Act<sup>1</sup>

21 USC

#### CHAPTER 13—DRUG ABUSE PREVENTION AND CONTROL

#### SUBCHAPTER I—CONTROL AND ENFORCEMENT

#### PART A—INTRODUCTORY PROVISIONS

#### Sec. 801. Congressional findings and declarations: controlled substances

The Congress makes the following findings and declarations:

(1) Many of the drugs included within this subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.

(2) The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.

(3) A major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because—

(A) after manufacture, many controlled substances are transported in interstate commerce,

(B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and

(C) controlled substances possessed commonly flow through interstate commerce immediately prior to such possession.

(4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances.

(5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate.

(6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic.

<sup>1</sup> The Controlled Substances Act was originally enacted as Title II of Public Law 91-513, the "Comprehensive Drug Abuse Prevention and Control Act of 1970," October 27, 1970, 84 STAT 1236 et seq.

(7) The United States is a party to the Single Convention on Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances.

### **Sec. 801a. Congressional findings and declarations: psychotropic substances**

The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.). This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Secretary of Health and Human Services on the basis of a consensus of the views of the American medical and scientific community.

### **Sec. 802. Definitions**

As used in this subchapter:

(1) The term "addict" means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.

(2) The term "administer" refers to the direct application of a controlled substance to the body of a patient or research subject by—

(A) a practitioner (or, in his presence, by his authorized agent), or

(B) the patient or research subject at the direction and in the presence of the practitioner, whether such application be by injection, inhalation, ingestion, or any other means.

(3) The term "agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser; except that such term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual and lawful course of the carrier's or warehouseman's business.

(4) The term "Drug Enforcement Administration" means the Drug Enforcement Administration in the Department of Justice.

(5) The term "control" means to add a drug or other substance, or immediate precursor, to a schedule under part B of this subchapter, whether by transfer from another schedule or otherwise.

(6) The term "controlled substance" means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

(7) The term "counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(8) The terms "deliver" or "delivery" mean the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not there exists an agency relationship.

(9) The term "depressant or stimulant substance" means—

(A) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid; or (ii) any derivative of barbituric acid which has been designated by the Secretary as habit forming under section 352(d) of this title; or

(B) a drug which contains any quantity of (i) amphetamine or any of its optical isomers; (ii) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous systems; or

(C) lysergic acid diethylamide; or

(D) any drug which contains any quantity of a substance which the Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(10) The term "dispense" means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery. The term "dispenser" means a practitioner who so delivers a controlled substance to an ultimate user or research subject.

(11) The term "distribute" means to deliver (other than by administering or dispensing) a controlled substance or a listed chemical. The term "distributor" means a person who so delivers a controlled substance or a listed chemical.

(12) The term "drug" has the meaning given that term by section 321(g)(1) of this title.

(13) The term "felony" means any Federal or State offense classified by applicable Federal or State law as a felony.

(14) The term "isomer" means the optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I(c), the term "isomer" means any optical, positional, or geometric isomer. As used in schedule II(a)(4), the term "isomer" means any optical or geometric isomer.

(15) The term "manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of a drug or other substance in conformity with applicable State or local law by a practitioner as an incident to his administration or dispensing of such drug or substance in the course of his professional practice. The term "manufacturer" means a person who manufactures a drug or other substance.

(16) The term "marihuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(17) The term "narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

(B) Poppy straw and concentrate of poppy straw.

(C) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

(D) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(E) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(F) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraphs (A) through (E).

(18) The term "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

(19) The term "opium poppy" means the plant of the species *Papaver somniferum* L., except the seed thereof.

(20) The term "poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(21) The term "practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(22) The term "production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(23) The term "immediate precursor" means a substance—

(A) which the Attorney General has found to be and by regulation designated as being the principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(B) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(C) the control of which is necessary to prevent, curtail, or limit the manufacture of such controlled substance.

(24) The term "Secretary", unless the context otherwise indicates, means the Secretary of Health and Human Services.

(25) The term "serious bodily injury" means bodily injury which involves—

(A) a substantial risk of death;

(B) protracted and obvious disfigurement; or

(C) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(26) The term "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone.

(27) The term "ultimate user" means a person who has lawfully obtained, and who possesses, a controlled substance for his own use or for the use of a member of his household or for an animal owned by him or by a member of his household.

(28) The term "United States", when used in a geographic sense, means all places and waters, continental or insular, subject to the jurisdiction of the United States.

(29) The term "maintenance treatment" means the dispensing, for a period in excess of twenty-one days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs.

(30) The term "detoxification treatment" means the dispensing, for a period not in excess of one hundred and eighty days, of a narcotic drug in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period.

(31) The term "Convention on Psychotropic Substances" means the Convention on Psychotropic Substances signed at Vienna, Austria, on February 21, 1971; and the term "Single Convention on Narcotic Drugs" means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961.

(32)(A) Except as provided in subparagraph (B), the term "controlled substance analogue" means a substance—

(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;

(ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(iii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(B) Such term does not include—

(i) a controlled substance;

(ii) any substance for which there is an approved new drug application;

(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 355 of this title to the extent conduct with respect to such substance is pursuant to such exemption; or

(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

(33) The term "listed chemical" means any list I chemical or any list II chemical.

(34) The term "list I chemical" means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this subchapter and is important to the manufacture of the controlled substances, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney



General or upon petition to the Attorney General by any person) the following:

- (A) Anthranilic acid, its esters, and its salts.
- (B) Benzyl cyanide.
- (C) Ephedrine, its salts, optical isomers, and salts of optical isomers.
- (D) Ergonovine and its salts.
- (E) Ergotamine and its salts.
- (F) N-Acetylanthranilic acid, its esters, and its salts.
- (G) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.
- (H) Phenylacetic acid, its esters, and its salts.
- (I) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.
- (J) Piperidine and its salts.
- (K) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.
- (L) 3,4-Methylenedioxyphenyl-2-propanone.
- (M) Methylamine.
- (N) Ethylamine.
- (O) Propionic anhydride.
- (P) Insosafrole.
- (Q) Saffrole.
- (R) Piperonal.
- (S) N-Methylephedrine.<sup>2</sup>
- (T) N-methylpseudoephedrine.
- (U) Hydriotic acid.
- (V) benzaldehyde
- (W) nitroethane
- (X) Any salt, optical isomer, or salt of an optical isomer of the chemicals listed in subparagraphs (M) through (X) of this paragraph.

(35) The term "list II chemical" means a chemical (other than a list I chemical) specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this subchapter, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following chemicals:

- (A) Acetic anhydride.
- (B) Acetone.
- (C) Benzyl chloride.
- (D) Ethyl ether.
- (E) Repealed. Pub. L. 101-647, title XXIII, Sec. 2301(b), Nov. 29, 1990, 104 Stat. 4858.
- (F) Potassium permanganate.
- (G) 2-Butanone.
- (H) Toluene.

(36) The term "regular customer" means, with respect to a regulated person, a customer with whom the regulated person has an established business relationship that is reported to the Attorney General.

<sup>2</sup> So in original. Probably should be "N-Methylephedrine."

(37) The term "regular importer" means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.

(38) The term "regulated person" means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.

(39) The term "regulated transaction" means—

(A) a distribution, receipt, sale, importation, or exportation of, or an international transaction involving shipment of, a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical, a threshold amount, including a cumulative threshold amount for multiple transactions (as determined by the Attorney General, in consultation with the chemical industry and taking into consideration the quantities normally used for lawful purposes), of a listed chemical, except that such term does not include—

(i) a domestic lawful distribution in the usual course of business between agents or employees of a single regulated person;

(ii) a delivery of a listed chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman, except that if the carriage or storage is in connection with the distribution, importation, or exportation of a listed chemical to a third person, this clause does not relieve a distributor, importer, or exporter from compliance with section 830 of this title;

(iii) any category of transaction or any category of transaction for a specific listed chemical or chemicals specified by regulation of the Attorney General as excluded from this definition as unnecessary for enforcement of this subchapter or subchapter II of this chapter;

(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient; or

(bb) the Attorney General has determined under section 814 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the thresh-

old established for that chemical by the Attorney General.

(v) any transaction in a chemical mixture which the Attorney General has by regulation designated as exempt from the application of this title and title III based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered; and (B) a distribution, importation, or exportation of a tableting machine or encapsulating machine.

(40) The term "chemical mixture" means a combination of two or more chemical substances, at least one of which is not a list I chemical or a list II chemical, except that such term does not include any combination of a list I chemical or a list II chemical with another chemical that is present solely as an impurity.

(41)(A) The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes—

- (i) boldenone,
- (ii) chlorotestosterone,
- (iii) clostebol,
- (iv) dehydrochlormethyltestosterone,
- (v) dihydrotestosterone,
- (vi) drostanolone,
- (vii) ethylestrenol,
- (viii) fluoxymesterone,
- (ix) formebolone,
- (x) mesterolone,
- (xi) methandienone,
- (xii) methandranone,
- (xiii) methandriol,
- (xiv) methandrostenolone,
- (xv) methenolone,
- (xvi) methyltestosterone,
- (xvii) mibolerone,
- (xviii) nandrolone,
- (xix) norethandrolone,
- (xx) oxandrolone,
- (xxi) oxymesterone,
- (xxii) oxymetholone,
- (xxiii) stanolone,
- (xxiv) stanozolol,
- (xxv) testolactone,
- (xxvi) testosterone,
- (xxvii) trenbolone, and

(xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

(B)(i) Except as provided in clause (ii), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and

which has been approved by the Secretary of Health and Human Services for such administration.

(ii) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of subparagraph (A).

(42) The term "international transaction" means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

(43) The terms "broker" and "trader" mean a person that assists in arranging an international transaction in a listed chemical by—

(A) negotiating contracts;

(B) serving as an agent or intermediary; or

(C) bringing together a buyer and seller, a buyer and transporter, or a seller and transporter.

(43)<sup>3</sup> The term "felony drug offense" means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.

**Sec. 803. \* \* \*** [Repealed by PL 95-137, Sec. 1(b), Oct. 18, 1977]

## **Part B—Authority to Control; Standards and Schedules**

### **Sec. 811. Authority and criteria for classification of substances**

#### **(a) Rules and regulations of Attorney General; hearing**

The Attorney General shall apply the provisions of this subchapter to the controlled substances listed in the schedules established by section 812 of this title and to any other drug or other substance added to such schedules under this subchapter. Except as provided in subsections (d) and (e) of this section, the Attorney General may by rule—

(1) add to such a schedule or transfer between such schedules any drug or other substance if he—

(A) finds that such drug or other substance has a potential for abuse, and

(B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed; or

(2) remove any drug or other substance from the schedules if he finds that the drug or other substance does not meet the requirements for inclusion in any schedule.

Rules of the Attorney General under this subsection shall be made on the record after opportunity for a hearing pursuant to the rulemaking procedures prescribed by subchapter II of chapter 5 of title 5. Proceedings for the issuance, amendment, or repeal of such

<sup>3</sup>This section, added by section 90105(d) of the Violent Crime and Law Enforcement Act of 1994, apparently should be numbered "(44)."

rules may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary, or (3) on the petition of any interested party.

**(b) Evaluation of drugs and other substances**

The Attorney General shall, before initiating proceedings under subsection (a) of this section to control a drug or other substance or to remove a drug or other substance entirely from the schedules, and after gathering the necessary data, request from the Secretary a scientific and medical evaluation, and his recommendations, as to whether such drug or other substance should be so controlled or removed as a controlled substance. In making such evaluation and recommendations, the Secretary shall consider the factors listed in paragraphs (2), (3), (6), (7), and (8) of subsection (c) of this section and any scientific or medical considerations involved in paragraphs (1), (4), and (5) of such subsection. The recommendations of the Secretary shall include recommendations with respect to the appropriate schedule, if any, under which such drug or other substance should be listed. The evaluation and the recommendations of the Secretary shall be made in writing and submitted to the Attorney General within a reasonable time. The recommendations of the Secretary to the Attorney General shall be binding on the Attorney General as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance not be controlled, the Attorney General shall not control the drug or other substance. If the Attorney General determines that these facts and all other relevant data constitute substantial evidence of potential for abuse such as to warrant control or substantial evidence that the drug or other substance should be removed entirely from the schedules, he shall initiate proceedings for control or removal, as the case may be, under subsection (a) of this section.

**(c) Factors determinative of control or removal from schedules**

In making any finding under subsection (a) of this section or under subsection (b) of section 812 of this title, the Attorney General shall consider the following factors with respect to each drug or other substance proposed to be controlled or removed from the schedules:

- (1) Its actual or relative potential for abuse.
- (2) Scientific evidence of its pharmacological effect, if known.
- (3) The state of current scientific knowledge regarding the drug or other substance.
- (4) Its history and current pattern of abuse.
- (5) The scope, duration, and significance of abuse.
- (6) What, if any, risk there is to the public health.
- (7) Its psychic or physiological dependence liability.
- (8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

**(d) International treaties, conventions, and protocols requiring control; procedures respecting changes in drug schedules of Convention on Psychotropic Substances**

(1) If control is required by United States obligations under international treaties, conventions, or protocols in effect on October 27, 1970, the Attorney General shall issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings required by subsection (a) of this section or section 812(b) of this title and without regard to the procedures prescribed by subsections (a) and (b) of this section.

(2)(A) Whenever the Secretary of State receives notification from the Secretary-General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Convention on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary of Health and Human Services who shall publish it in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the scientific and medical evaluations which he is to prepare respecting such drug or substance. The Secretary of Health and Human Services shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization respecting the drug or substance with respect to which a notice was transmitted under this subparagraph.

(B) Whenever the Secretary of State receives information that the Commission on Narcotic Drugs of the United Nations proposes to decide whether to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State shall transmit timely notice to the Secretary of Health and Human Services of such information who shall publish a summary of such information in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the recommendation which he is to furnish, pursuant to this subparagraph, respecting such proposal. The Secretary of Health and Human Services shall evaluate the proposal and furnish a recommendation to the Secretary of State which shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

(3) When the United States receives notification of a scheduling decision pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has been added or transferred to a schedule specified in the notification or receives notification (referred to in this subsection as a "schedule notice") that existing legal controls applicable under this subchapter to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) do not meet the re-

quirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health and Human Services after consultation with the Attorney General, shall first determine whether existing legal controls under this subchapter applicable to the drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act, meet the requirements of the schedule specified in the notification or schedule notice and shall take the following action:

(A) If such requirements are met by such existing controls but the Secretary of Health and Human Services nonetheless believes that more stringent controls should be applied to the drug or substance, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply to such controls.

(B) If such requirements are not met by such existing controls and the Secretary of Health and Human Services concurs in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance under the appropriate schedule pursuant to subsections (a) and (b) of this section.

(C) If such requirements are not met by such existing controls and the Secretary of Health and Human Services does not concur in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall—

(i) if he deems that additional controls are necessary to protect the public health and safety, recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance pursuant to subsections (a) and (b) of this section, to apply such additional controls;

(ii) request the Secretary of State to transmit a notice of qualified acceptance, within the period specified in the Convention, pursuant to paragraph 7 of article 2 of the Convention, to the Secretary-General of the United Nations;

(iii) request the Secretary of State to transmit a notice of qualified acceptance as prescribed in clause (ii) and request the Secretary of State to ask for a review by the Economic and Social Council of the United Nations, in accordance with paragraph 8 of article 2 of the Convention, of the scheduling decision; or

(iv) in the case of a schedule notice, request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice.

(4)(A) If the Attorney General determines, after consultation with the Secretary of Health and Human Services, that proceedings ini-

tiated under recommendations made under paragraph <sup>4</sup> (B) or (C)(i) of paragraph (3) will not be completed within the time period required by paragraph 7 of article 2 of the Convention, the Attorney General, after consultation with the Secretary and after providing interested persons opportunity to submit comments respecting the requirements of the temporary order to be issued under this sentence, shall issue a temporary order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this subchapter which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. In the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issuance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

(B) After a notice of qualified acceptance of a scheduling decision with respect to a drug or other substance is transmitted to the Secretary-General of the United Nations in accordance with clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph with respect to a drug or substance described in a schedule notice, the Attorney General, after consultation with the Secretary of Health and Human Services and after providing interested persons opportunity to submit comments respecting the requirements of the order to be issued under this sentence, shall issue an order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this subchapter which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. If, as a result of a review under paragraph 8 of article 2 of the Convention of the scheduling decision with respect to which a notice of qualified acceptance was transmitted in accordance with clause (ii) or (iii) of paragraph (3)(C)—

- (i) the decision is reversed, and
- (ii) the drug or substance subject to such decision is not required to be controlled under schedule IV or V to carry out the

<sup>4</sup> So in original. Probably should be "subparagraph".



minimum United States obligations under paragraph 7 of article 2 of the Convention,

the order issued under this subparagraph with respect to such drug or substance shall expire upon receipt by the United States of the review decision. If, as a result of action taken pursuant to action initiated under a request transmitted under clause (iv) of paragraph (3)(C), the drug or substance with respect to which such action was taken is not required to be controlled under schedule IV or V, the order issued under this paragraph with respect to such drug or substance shall expire upon receipt by the United States of a notice of the action taken with respect to such drug or substance under the Convention.

(C) An order issued under subparagraph (A) or (B) may be issued without regard to the findings required by subsection (a) of this section or by section 812(b) of this title and without regard to the procedures prescribed by subsection (a) or (b) of this section.

(5) Nothing in the amendments made by the Psychotropic Substances Act of 1978 or the regulations or orders promulgated thereunder shall be construed to preclude requests by the Secretary of Health and Human Services or the Attorney General through the Secretary of State, pursuant to article 2 or other applicable provisions of the Convention, for review of scheduling decisions under such Convention, based on new or additional information.

#### **(e) Immediate precursors**

The Attorney General may, without regard to the findings required by subsection (a) of this section or section 812(b) of this title and without regard to the procedures prescribed by subsections (a) and (b) of this section, place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule with a higher numerical designation. If the Attorney General designates a substance as an immediate precursor and places it in a schedule, other substances shall not be placed in a schedule solely because they are its precursors.

#### **(f) Abuse potential**

If, at the time a new-drug application is submitted to the Secretary for any drug having a stimulant, depressant, or hallucinogenic effect on the central nervous system, it appears that such drug has an abuse potential, such information shall be forwarded by the Secretary to the Attorney General.

#### **(g) Exclusion of non-narcotic substances sold over the counter without a prescription; dextromethorphan; exemption of substances lacking abuse potential**

(1) The Attorney General shall by regulation exclude any non-narcotic substance from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), be lawfully sold over the counter without a prescription.

(2) Dextromethorphan shall not be deemed to be included in any schedule by reason of enactment of this subchapter unless controlled after October 27, 1970 pursuant to the foregoing provisions of this section.

(3) The Attorney General may, by regulation, exempt any compound, mixture, or preparation containing a controlled substance from the application of all or any part of this subchapter if he finds such compound, mixture, or preparation meets the requirements of one of the following categories:

(A) A mixture, or preparation containing a nonnarcotic controlled substance, which mixture or preparation is approved for prescription use, and which contains one or more other active ingredients which are not listed in any schedule and which are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse.

(B) A compound, mixture, or preparation which contains any controlled substance, which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.

**(h) Temporary scheduling to avoid imminent hazards to public safety**

(1) If the Attorney General finds that the scheduling of a substance in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, he may, by order and without regard to the requirements of subsection (b) of this section relating to the Secretary of Health and Human Services, schedule such substance in schedule I if the substance is not listed in any other schedule in section 812 of this title or if no exemption or approval is in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355). Such an order may not be issued before the expiration of thirty days from—

(A) the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued, and

(B) the date the Attorney General has transmitted the notice required by paragraph (4).

(2) The scheduling of a substance under this subsection shall expire at the end of one year from the date of the issuance of the order scheduling such substance, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) of this section with respect to the substance, extend the temporary scheduling for up to six months.

(3) When issuing an order under paragraph (1), the Attorney General shall be required to consider, with respect to the finding of an imminent hazard to the public safety, only those factors set forth in paragraphs (4), (5), and (6) of subsection (c) of this section, including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

(4) The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

(5) An order issued under paragraph (1) with respect to a substance shall be vacated upon the conclusion of a subsequent rule-making proceeding initiated under subsection (a) of this section with respect to such substance.

(6) An order issued under paragraph (1) is not subject to judicial review.

## **Sec. 812. Schedules of controlled substances**

### **(a) Establishment**

There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after October 27, 1970, and shall be updated and republished on an annual basis thereafter.

### **(b) Placement on schedules; findings required**

Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on October 27, 1970, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

#### **(1) Schedule I.—**

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

#### **(2) Schedule II.—**

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

#### **(3) Schedule III.—**

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

#### **(4) Schedule IV.—**

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) Schedule V.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

**(c) Initial schedules of controlled substances**

Schedules I, II, III, IV, and V shall, unless and until amended<sup>5</sup> pursuant to section 811 of this title, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

**SCHEDULE I**

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol.
- (2) Allylprodine.
- (3) Alphacetylmethadol.<sup>6</sup>
- (4) Alphameprodine.
- (5) Alphamethadol.
- (6) Benzethidine.
- (7) Betacetylmethadol.
- (8) Betameprodine.
- (9) Betamethadol.
- (10) Betaprodine.
- (11) Clonitazene.
- (12) Dextromoramide.
- (13) Dextrorphan.
- (14) Diampromide.
- (15) Diethylthiambutene.
- (16) Dimenoxadol.
- (17) Dimepheptanol.
- (18) Dimethylthiambutene.
- (19) Dioxaphetyl butyrate.
- (20) Dipipanone.
- (21) Ethylmethylthiambutene.
- (22) Etonitazene.
- (23) Etoxeridine.
- (24) Furethidine.
- (25) Hydroxypethidine.
- (26) Ketobemidone.

<sup>5</sup>Revised schedules are published in the Code of Federal Regulations, Part 1308 of Title 21, Food and Drugs.

<sup>6</sup>So in original. Probably should be "Alphacetylmethadol."

- (27) Levomoramide.
- (28) Levophenacymorphan.
- (29) Morpheridine.
- (30) Noracymethadol.
- (31) Norlevorphanol.
- (32) Normethadone.
- (33) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.
- (38) Piritramide.
- (39) Propheptazine.
- (40) Properidine.
- (41) Racemoramide.
- (42) Trimeperidine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salt of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine.
- (2) Acetyldihydrocodeine.
- (3) Benzylmorphine.
- (4) Codeine methylbromide.
- (5) Codeine-N-Oxide.
- (6) Cyprenorphine.
- (7) Desomorphine.
- (8) Dihydromorphine.
- (9) Etorphine.
- (10) Heroin.
- (11) Hydromorphenol.
- (12) Methyldesorphine.
- (13) Methylhydromorphine.
- (14) Morphine methylbromide.
- (15) Morphine methylsulfonate.
- (16) Morphine-N-Oxide.
- (17) Myrophine.
- (18) Nicocodeine.
- (19) Nicomorphine.
- (20) Normorphine.
- (21) Pholcodine.
- (22) Thebacon.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine.
- (2) 5-methoxy-3,4-methylenedioxy amphetamine.
- (3) 3,4,5-trimethoxy amphetamine.
- (4) Bufotenine.
- (5) Diethyltryptamine.

- (6) Dimethyltryptamine.
- (7) 4-methyl-2,5-diamethoxyamphetamine.
- (8) Ibogaine.
- (9) Lysergic acid diethylamide.
- (10) Marihuana.
- (11) Mescaline.
- (12) Peyote.
- (13) N-ethyl-3-piperidyl benzilate.
- (14) N-methyl-3-piperidyl benzilate.
- (15) Psilocybin.
- (16) Psilocyn.
- (17) Tetrahydrocannabinols.

## SCHEDULE II

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) coca<sup>7</sup> leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alphaprodine.
- (2) Anileridine.
- (3) Bezitramide.
- (4) Dihydrocodeine.
- (5) Diphenoxylate.
- (6) Fentanyl.
- (7) Isomethadone.
- (8) Levomethorphan.
- (9) Levorphanol.
- (10) Metazocine.
- (11) Methadone.
- (12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane.

<sup>7</sup>So in original. Probably should be capitalized.

(13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.

(14) Pethidine.

(15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.

(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.

(17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.

(18) Phenazocine.

(19) Piminodine.

(20) Racemethorphan.

(21) Racemorphan.

(c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

### SCHEDULE III

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Phenmetrazine and its salts.

(3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(4) Methylphenidate.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.

(2) Chorphexadol.

(3) Glutehimide.

(4) Lysergic acid.

(5) Lysergic acid amide.

(6) Methypylon.

(7) Phencyclidine.

(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

(c) Nalorphine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Anabolic steroids.

#### SCHEDULE IV

- (1) Barbital.
- (2) Chloral betaine.
- (3) Chloral hydrate.
- (4) Ethchlorvynol.
- (5) Ethinamate.
- (6) Methohexital.
- (7) Meprobamate.
- (8) Methylphenobarbital.
- (9) Paraldehyde.
- (10) Petrichloral.
- (11) Phenobarbital.

#### SCHEDULE V

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.



(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

### **Sec. 813. Treatment of controlled substance analogues**

A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of any Federal law as a controlled substance in schedule I.

### **Sec. 814. Removal of Exemption of Certain Drugs**

(a) Removal of Exemption.—The Attorney General shall by regulation remove from exemption under section 802(39)(A)(iv) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

(b) Factors To Be Considered.—In removing a drug or group of drugs from exemption under section (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

(1) the scope, duration, and significance of the diversion;

(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

(c) Specificity of Designation.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

(d) Reinstatement of Exemption With Respect to Particular Drug Products.—

(1) Reinstatement.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

(2) Factors to be Considered.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

(A) the package sizes and manner of packaging of the drug product;

(B) the manner of distribution and advertising of the drug product;

(C) evidence of diversion of the drug product;

(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

(3) Status pending application for reinstatement.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

(B) the Attorney General so notifies the applicant.

(4) Amendment and Modification.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

(B) there is a significant change in the data that led to the issuance of the regulation.

## **Part C—Registration of Manufacturers, Distributors, and Dispenser of Controlled Substances.**

### **Sec. 821. Rules and regulations**

The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances and to the registration and control of regulated persons and of regulated transactions.

### **Sec. 822. Persons required to register**

#### **(a) Period of registration**

(1) Every person who manufactures or distributes any controlled substance or list I chemical, or who proposes to engage in the manufacture or distribution of any controlled substance or list I chemical, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

(2) Every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him. The Attorney General shall, by regulation, determine the period of such registrations. In no event, however, shall such registrations be issued for less than one year nor for more than three years.

### **(b) Authorized activities**

Persons registered by the Attorney General under this subchapter<sup>8</sup> to manufacture, distribute, or dispense controlled substances or list I chemicals are authorized to possess, manufacture, distribute, or dispense such substances or chemicals (including any such activity in the conduct of research) to the extent authorized by their registration and in conformity with the other provisions of this subchapter.

### **(c) Exceptions**

The following persons shall not be required to register and may lawfully possess any controlled substance or list I chemical under this subchapter:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance or list I chemical if such agent or employee is acting in the usual course of his business or employment.

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of the controlled substance or list I chemical is in the usual course of his business or employment.

(3) An ultimate user who possesses such substance for a purpose specified in section 802(25)<sup>9</sup> of this title.

### **(d) Waiver**

The Attorney General may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

### **(e) Separate registration**

A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances or list I chemicals.

### **(f) Inspection**

The Attorney General is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

## **Sec. 823. Registration requirements**

### **(a) Manufacturers of controlled substances in schedule I or II**

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or pro-

<sup>8</sup> This subchapter, referred to in subsecs. (b) and (c), was in the original "this title", meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the "Controlled Substances Act".

<sup>9</sup> Section 802(25) of this title, referred to in subsec. (c)(3), was redesignated section 802(26) of this title by Pub. L. 98-473, title II, Sec. 507(a), Oct. 12, 1984, 98 Stat. 2071, and was further redesignated section 802(27) of this title by Pub. L. 99-570, title I, Sec. 1003(b)(2), Oct. 27, 1986, 100 Stat. 3207-6.

tocols in effect on May 1, 1971. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture of controlled substances, and the existence in the establishment of effective control against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

**(b) Distributors of controlled substances in schedule I or II**

The Attorney General shall register an applicant to distribute a controlled substance in schedule I or II unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective control against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

**(c) Limits of authorized activities**

Registration granted under subsections (a) and (b) of this section shall not entitle a registrant to (1) manufacture or distribute controlled substances in schedule I or II other than those specified in the registration, or (2) manufacture any quantity of those controlled substances in excess of the quota assigned pursuant to section 826 of this title.

**(d) Manufacturers of controlled substances in schedule III, IV, or V**

The Attorney General shall register an applicant to manufacture controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with

the public interest. In determining the public interest, the following factors shall be considered:

- (1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule III, IV, or V compounded therefrom into other than legitimate medical, scientific, or industrial channels;
- (2) compliance with applicable State and local law;
- (3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;
- (4) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;
- (5) past experience in the manufacture, distribution, and dispensing of controlled substances, and the existence in the establishment of effective controls against diversion; and
- (6) such other factors as may be relevant to and consistent with the public health and safety.

**(e) Distributors of controlled substances in schedule III, IV, or V**

The Attorney General shall register an applicant to distribute controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

- (1) maintenance of effective controls against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;
- (2) compliance with applicable State and local law;
- (3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;
- (4) past experience in the distribution of controlled substances; and
- (5) such other factors as may be relevant to and consistent with the public health and safety.

**(f) Research by practitioners; pharmacies; research applications; construction of Article 7 of the Convention on Psychotropic Substances**

The Attorney General shall register practitioners (including pharmacies, as distinguished from pharmacists) to dispense, or conduct research with, controlled substances in schedule II, III, IV, or V, if the applicant is authorized to dispense, or conduct research with respect to, controlled substances under the laws of the State in which he practices. The Attorney General may deny an application for such registration if he determines that the issuance of such registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

- (1) The recommendation of the appropriate State licensing board or professional disciplinary authority.
- (2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Separate registration under this part for practitioners engaging in research with controlled substances in schedule II, III, IV, or V, who are already registered under this part in another capacity, shall not be required. Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine the qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 824(a) of this title. Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the convention which is conducted in conformity with this subsection and other applicable provisions of this subchapter.

**(g) Practitioners dispensing narcotic drugs for narcotic treatment; annual registration; separate registration; qualifications**

Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The Attorney General shall register an applicant to dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment (or both)

(1) if the applicant is a practitioner who is determined by the Secretary to be qualified (under standards established by the Secretary) to engage in the treatment with respect to which registration is sought;

(2) if the Attorney General determines that the applicant will comply with standards established by the Attorney General respecting (A) security of stocks of narcotic drugs for such treatment, and (B) the maintenance of records (in accordance with section 827 of this title) on such drugs; and

(3) if the Secretary determines that the applicant will comply with standards established by the Secretary (after consultation with the Attorney General) respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

(h) The Attorney General shall register an application to distribute a list I chemical unless the Attorney General determines that

registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 802(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

- (1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;
- (2) compliance by the applicant with applicable Federal, State, and local law;
- (3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;
- (4) any past experience of the applicant in the manufacture and distribution of chemicals; and
- (5) such other factors as are relevant to and consistent with the public health and safety.

## **Sec. 824. Denial, revocation, or suspension of registration**

### **(a) Grounds**

A registration pursuant to section 823 of this title to manufacture, distribute, or dispense a controlled substance or list I chemical may be suspended or revoked by the Attorney General upon a finding that the registrant—

- (1) has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;
- (2) has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State, relating to any substance defined in this subchapter as a controlled substance or list I chemical;
- (3) has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or list I chemicals or has had the suspension, revocation, or denial of his registration recommended by competent State authority;
- (4) has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or
- (5) has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a-7(a) of title 42.

A registration pursuant to section 823(g) of this title to dispense a narcotic drug for maintenance treatment or detoxification treatment may be suspended or revoked by the Attorney General upon a finding that the registrant has failed to comply with any standard referred to in section 823(g) of this title.

### **(b) Limits of revocation or suspension**

The Attorney General may limit revocation or suspension of a registration to the particular controlled substance of list I chemical with respect to which grounds for revocation or suspension exist.

**(c) Service of show cause order; proceedings**

Before taking action pursuant to this section, or pursuant to a denial of registration under section 823 of this title, the Attorney General shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with subchapter II of chapter 5 of title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.

**(d) Suspension of registration in cases of imminent danger**

The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety. A failure to comply with a standard referred to in section 823(g) of this title may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. A suspension under this subsection shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

**(e) Suspension and revocation of quotas**

The suspension or revocation of a registration under this section shall operate to suspend or revoke any quota applicable under section 826 of this title.

**(f) Disposition of controlled substances or list I chemicals**

In the event the Attorney General suspends or revokes a registration granted under section 823 of this title, all controlled substances or list I chemicals owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be placed under seal. No disposition may be made of any controlled substances or list I chemicals under seal until the time for taking an appeal has elapsed or until all appeals have been concluded except that a court, upon application therefor, may at any time order the sale of perishable controlled substances or list I chemicals. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances or list I chemicals (or proceeds of sale deposited in court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances in accordance with section 881(e) of this title. All right, title, and interest in such controlled substances or list I chemicals shall vest in the United States upon a revocation order becoming final.



**(g) Seizure or placement under seal of controlled substances**

The Attorney General may, in his discretion, seize or place under seal any controlled substances or list I chemicals owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by his registration. Such controlled substances or list I chemicals shall be held for the benefit of the registrant, or his successor in interest. The Attorney General shall notify a registrant, or his successor in interest, who has any controlled substance or list I chemicals seized or placed under seal of the procedures to be followed to secure the return of the controlled substance or list I chemicals and the conditions under which it will be returned. The Attorney General may not dispose of any controlled substance or list I chemicals seized or placed under seal under this subsection until the expiration of one hundred and eighty days from the date such substance was seized or placed under seal.

**Sec. 825. Labeling and packaging**

**(a) Symbol**

It shall be unlawful to distribute a controlled substance in a commercial container unless such container, when and as required by regulations of the Attorney General, bears a label (as defined in section 321(k) of this title) containing an identifying symbol for such substance in accordance with such regulations. A different symbol shall be required for each schedule of controlled substances.

**(b) Unlawful distribution without identifying symbol**

It shall be unlawful for the manufacturer of any controlled substance to distribute such substance unless the labeling (as defined in section 321(m) of this title) of such substance contains, when and as required by regulations of the Attorney General, the identifying symbol required under subsection (a) of this section.

**(c) Warning on label**

The Secretary shall prescribe regulations under section 353(b) of this title which shall provide that the label of a drug listed in schedule II, III, or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a crime to transfer the drug to any person other than the patient.

**(d) Containers to be securely sealed**

It shall be unlawful to distribute controlled substances in schedule I or II, and narcotic drugs in schedule III or IV, unless the bottle or other container, stopper, covering, or wrapper thereof is securely sealed as required by regulations of the Attorney General.

**Sec. 826. Production quotas for controlled substances**

**(a) Establishment of total annual needs**

The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II to be manufactured each calendar year to provide for the estimated medical, scientific, research, and in-

dustrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. Production quotas shall be established in terms of quantities of each basic class of controlled substance and not in terms of individual pharmaceutical dosage forms prepared from or containing such a controlled substance.

**(b) Individual production quotas; revised quotas**

The Attorney General shall limit or reduce individual production quotas to the extent necessary to prevent the aggregate of individual quotas from exceeding the amount determined necessary each year by the Attorney General under subsection (a) of this section. The quota of each registered manufacturer for each basic class of controlled substance in schedule I or II shall be revised in the same proportion as the limitation or reduction of the aggregate of the quotas. However, if any registrant, before the issuance of a limitation or reduction in quota, has manufactured in excess of his revised quota, the amount of the excess shall be subtracted from his quota for the following year.

**(c) Manufacturing quotas for registered manufacturers**

On or before October 1 of each year, upon application therefor by a registered manufacturer, the Attorney General shall fix a manufacturing quota for the basic classes of controlled substances in schedules I and II that the manufacturer seeks to produce. The quota shall be subject to the provisions of subsections (a) and (b) of this section. In fixing such quotas, the Attorney General shall determine the manufacturer's estimated disposal, inventory, and other requirements for the calendar year; and, in making his determination, the Attorney General shall consider the manufacturer's current rate of disposal, the trend of the national disposal rate during the preceding calendar year, the manufacturer's production cycle and inventory position, the economic availability of raw materials, yield and stability problems, emergencies such as strikes and fires, and other factors.

**(d) Quotas for registrants who have not manufactured controlled substance during one or more preceding years**

The Attorney General shall, upon application and subject to the provisions of subsections (a) and (b) of this section, fix a quota for a basic class of controlled substance in schedule I or II for any registrant who has not manufactured that basic class of controlled substance during one or more preceding calendar years. In fixing such quota, the Attorney General shall take into account the registrant's reasonably anticipated requirements for the current year; and, in making his determination of such requirements, he shall consider such factors specified in subsection (c) of this section as may be relevant.

**(e) Quota increases**

At any time during the year any registrant who has applied for or received a manufacturing quota for a basic class of controlled substance in schedule I or II may apply for an increase in that

quota to meet his estimated disposal, inventory, and other requirements during the remainder of that year. In passing upon the application the Attorney General shall take into consideration any occurrences since the filing of the registrant's initial quota application that may require an increased manufacturing rate by the registrant during the balance of the year. In passing upon the application the Attorney General may also take into account the amount, if any, by which the determination of the Attorney General under subsection (a) of this section exceeds the aggregate of the quotas of all registrants under this section.

**(f) Incidental production exception**

Notwithstanding any other provisions of this subchapter, no registration or quota may be required for the manufacture of such quantities of controlled substances in schedules I and II as incidentally and necessarily result from the manufacturing process used for the manufacture of a controlled substance with respect to which its manufacturer is duly registered under this subchapter. The Attorney General may, by regulation, prescribe restrictions on the retention and disposal of such incidentally produced substances.

**Sec. 827. Records and reports of registrants**

**(a) Inventory**

Except as provided in subsection (c) of this section—

(1) every registrant under this subchapter shall, on May 1, 1971, or as soon thereafter as such registrant first engages in the manufacture, distribution, or dispensing of controlled substances, and every second year thereafter, make a complete and accurate record of all stocks thereof on hand, except that the regulations prescribed under this section shall permit each such biennial inventory (following the initial inventory required by this paragraph) to be prepared on such registrant's regular general physical inventory date (if any) which is nearest to and does not vary by more than six months from the biennial date that would otherwise apply;

(2) on the effective date of each regulation of the Attorney General controlling a substance that immediately prior to such date was not a controlled substance, each registrant under this subchapter manufacturing, distributing, or dispensing such substance shall make a complete and accurate record of all stocks thereof on hand; and

(3) on and after May 1, 1971, every registrant under this subchapter manufacturing, distributing, or dispensing a controlled substance or substances shall maintain, on a current basis, a complete and accurate record of each such substance manufactured, received, sold, delivered, or otherwise disposed of by him, except that this paragraph shall not require the maintenance of a perpetual inventory.

**(b) Availability of records**

Every inventory or other record required under this section (1) shall be in accordance with, and contain such relevant information as may be required by, regulations of the Attorney General, (2)

shall (A) be maintained separately from all other records of the registrant, or (B) alternatively, in the case of nonnarcotic controlled substances, be in such form that information required by the Attorney General is readily retrievable from the ordinary business records of the registrant, and (3) shall be kept and be available, for at least two years, for inspection and copying by officers or employees of the United States authorized by the Attorney General.

**(c) Nonapplicability**

The foregoing provisions of this section shall not apply—

(1)(A) to the prescribing of controlled substances in schedule II, III, IV, or V by practitioners acting in the lawful course of their professional practice unless such substance is prescribed in the course of maintenance or detoxification treatment of an individual; or

(B) to the administering of a controlled substance in schedule II, III, IV, or V unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered or unless such substance is administered in the course of maintenance treatment or detoxification treatment of an individual;

(2)(A) to the use of controlled substances, at establishments registered under this subchapter which keep records with respect to such substances, in research conducted in conformity with an exemption granted under section 355(i) or 360b(j) of this title;

(B) to the use of controlled substances, at establishments registered under this subchapter which keep records with respect to such substances, in preclinical research or in teaching; or

(3) to the extent of any exemption granted to any person, with respect to all or part of such provisions, by the Attorney General by or pursuant to regulation on the basis of a finding that the application of such provisions (or part thereof) to such person is not necessary for carrying out the purposes of this subchapter.

Nothing in the Convention on Psychotropic Substances shall be construed as superseding or otherwise affecting the provisions of paragraph (1)(B), (2), or (3) of this subsection.

**(d) Periodic reports to Attorney General**

Every manufacturer registered under section 823 of this title shall, at such time or times and in such form as the Attorney General may require, make periodic reports to the Attorney General of every sale, delivery or other disposal by him of any controlled substance, and each distributor shall make such reports with respect to narcotic controlled substances, identifying by the registration number assigned under this subchapter the person or establishment (unless exempt from registration under section 822(d) of this title) to whom such sale, delivery, or other disposal was made.

**(e) Reporting and recordkeeping requirements of drug conventions**

In addition to the reporting and recordkeeping requirements under any other provision of this subchapter, each manufacturer registered under section 823 of this title shall, with respect to narcotic and nonnarcotic controlled substances manufactured by it, make such reports to the Attorney General, and maintain such records, as the Attorney General may require to enable the United States to meet its obligations under articles 19 and 20 of the Single Convention on Narcotic Drugs and article 16 of the Convention on Psychotropic Substances. The Attorney General shall administer the requirements of this subsection in such a manner as to avoid the unnecessary imposition of duplicative requirements under this subchapter on manufacturers subject to the requirements of this subsection.

**(f) Investigational uses of drugs; procedures**

Regulations under sections 355(i) and 360(j) of this title, relating to investigational use of drugs, shall include such procedures as the Secretary, after consultation with the Attorney General, determines are necessary to insure the security and accountability of controlled substances used in research to which such regulations apply.

**(g) Change of address**

Every registrant under this subchapter shall be required to report any change of professional or business address in such manner as the Attorney General shall by regulation require.

**Sec. 828. Order forms**

**(a) Unlawful distribution of controlled substances**

It shall be unlawful for any person to distribute a controlled substance in schedule I or II to another except in pursuance of a written order of the person to whom such substance is distributed, made on a form to be issued by the Attorney General in blank in accordance with subsection (d) of this section and regulations prescribed by him pursuant to this section.

**(b) Nonapplicability of provisions**

Nothing in subsection (a) of this section shall apply to—

(1) the exportation of such substances from the United States in conformity with subchapter II of this chapter;

(2) the delivery of such a substance to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution by the owner of the substance to a third person, this paragraph shall not relieve the distributor from compliance with subsection (a) of this section.

### **(c) Preservation and availability**

(1) Every person who in pursuance of an order required under subsection (a) of this section distributes a controlled substance shall preserve such order for a period of two years, and shall make such order available for inspection and copying by officers and employees of the United States duly authorized for that purpose by the Attorney General, and by officers or employees of States or their political subdivisions who are charged with the enforcement of State or local laws regulating the production, or regulating the distribution or dispensing, of controlled substances and who are authorized under such laws to inspect such orders.

(2) Every person who gives an order required under subsection (a) of this section shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued by the Attorney General in blank in accordance with subsection (d) of this section and regulations prescribed by him pursuant to this section, and shall, if such order is accepted, preserve such duplicate for a period of two years and make it available for inspection and copying by the officers and employees mentioned in paragraph (1) of this subsection.

### **(d) Issuance**

(1) The Attorney General shall issue forms pursuant to subsections (a) and (c)(2) of this section only to persons validly registered under section 823 of this title (or exempted from registration under section 822(d) of this title). Whenever any such form is issued to a person, the Attorney General shall, before delivery thereof, insert therein the name of such person, and it shall be unlawful for any other person (A) to use such form for the purpose of obtaining controlled substances or (B) to furnish such form to any person with intent thereby to procure the distribution of such substances.

(2) The Attorney General may charge reasonable fees for the issuance of such forms in such amounts as he may prescribe for the purpose of covering the cost to the United States of issuing such forms, and other necessary activities in connection therewith.

### **(e) Unlawful acts**

It shall be unlawful for any person to obtain by means of order forms issued under this section controlled substances for any purpose other than their use, distribution, dispensing, or administration in the conduct of a lawful business in such substances or in the course of his professional practice or research.

## **Sec. 829. Prescriptions**

### **(a) Schedule II substances**

Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), may be dispensed without the written prescription of a practitioner, except that in emergency situations, as prescribed by the Secretary by regulation after consultation with the Attorney General, such drug

may be dispensed upon oral prescription in accordance with section 503(b) of that Act (21 U.S.C. 353(b)). Prescriptions shall be retained in conformity with the requirements of section 827 of this title. No prescription for a controlled substance in schedule II may be refilled.

**(b) Schedule III and IV substances**

Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), may be dispensed without a written or oral prescription in conformity with section 503(b) of that Act (21 U.S.C. 353(b)). Such prescriptions may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

**(c) Schedule V substances**

No controlled substance in schedule V which is a drug may be distributed or dispensed other than for a medical purpose.

**(d) Non-prescription drugs with abuse potential**

Whenever it appears to the Attorney General that a drug not considered to be a prescription drug under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) should be so considered because of its abuse potential, he shall so advise the Secretary and furnish to him all available data relevant thereto.

**Sec. 830. Regulation of listed chemicals and certain machines**

**(a) Record of regulated transactions**

(1) Each regulated person who engages in a regulated transaction involving a listed chemical, a tableting machine, or an encapsulating machine shall keep a record of the transaction—

(A) for 4 years after the date of the transaction, if the listed chemical is a list I chemical or if the transaction involves a tableting machine or an encapsulating machine; and

(B) for 2 years after the date of the transaction, if the listed chemical is a list II chemical.

(2) A record under this subsection shall be retrievable and shall include the date of the regulated transaction, the identity of each party to the regulated transaction, a statement of the quantity and form of the listed chemical, a description of the tableting machine or encapsulating machine, and a description of the method of transfer. Such record shall be available for inspection and copying by the Attorney General.

(3) It is the duty of each regulated person who engages in a regulated transaction to identify each other party to the transaction. It is the duty of such other party to present proof of identity to the regulated person. The Attorney General shall specify by regulation the types of documents and other evidence that constitute proof of identity for purposes of this paragraph.

### **(b) Reports to Attorney General**

(1) Each regulated person shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe by regulation—

(A) any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of this subchapter;

(B) any proposed regulated transaction with a person whose description or other identifying characteristic the Attorney General furnishes in advance to the regulated person;

(C) any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person; and

(D) any regulated transaction in a tableting machine or an encapsulating machine.

Each report under subparagraph (A) shall be made at the earliest practicable opportunity after the regulated person becomes aware of the circumstance involved. A regulated person may not complete a transaction with a person whose description or identifying characteristic is furnished to the regulated person under subparagraph (B) unless the transaction is approved by the Attorney General. The Attorney General shall make available to regulated persons guidance documents describing transactions and circumstances for which reports are required under subparagraph (A) and subparagraph (C).

(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 802(39)(A)(iv).

### **(c) Confidentiality of information obtained by Attorney General; non-disclosure; exceptions**

(1) Except as provided in subparagraph (B), any information obtained by the Attorney General under this section which is exempt from disclosure under section 552(a) of title 5, by reason of section 552(b)(4) of such title, is confidential and may not be disclosed to any person.

(2) Information referred to in subparagraph (A) may be disclosed only—

(A) to an officer or employee of the United States engaged in carrying out this subchapter, subchapter II of this chapter, or the customs laws;

(B) when relevant in any investigation or proceeding for the enforcement of this subchapter, subchapter II of this chapter, or the customs laws;

(C) when necessary to comply with an obligation of the United States under a treaty or other international agreement; or



(D) to a State or local official or employee in conjunction with the enforcement of controlled substances laws or chemical control laws.

(3) The Attorney General shall—

(A) take such action as may be necessary to prevent unauthorized disclosure of information by any person to whom such information is disclosed under paragraph (2); and

(B) issue guidelines that limit, to the maximum extent feasible, the disclosure of proprietary business information, including the names or identities of United States exporters of listed chemicals, to any person to whom such information is disclosed under paragraph (2).

(4) Any person who is aggrieved by a disclosure of information in violation of this section may bring a civil action against the violator for appropriate relief.

(5) Notwithstanding paragraph (4), a civil action may not be brought under such paragraph against investigative or law enforcement personnel of the Drug Enforcement Administration.

## Part D—Offenses and Penalties

### Sec. 841. Prohibited acts A

#### (a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

#### (b) Penalties

Except as otherwise provided in section 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a violation of subsection (a) of this section involving—

(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(iii) 50 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

(iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N- [ 1- ( 2-phenylethyl ) -4-piperidinyl ] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl propanamide;

(vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 1,000 or more marihuana plants regardless of weight; or

(viii) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$8,000,000 if the defendant is an individual or \$20,000,000 if the defendant is other than an individual, or both. If any person commits a violation of this subparagraph or of section 859, 860, or 861 of this title after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. Any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

(B) In the case of a violation of subsection (a) of this section involving—

(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

(ii) 500 grams or more of a mixture or substance containing a detectable amount of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(iii) 5 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N- [ 1- ( 2-phenylethyl ) -4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl propanamide;

(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 100 or more marihuana plants regardless of weight; or

(viii) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a drug felony offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph

shall be eligible for parole during the term of imprisonment imposed therein.

(C) In the case of a controlled substance in schedule I or II except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$1,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a drug felony offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.

(D) In the case of less than 50 kilograms of marihuana, except in the case of 50 or more marihuana plants regardless of weight, 10 kilograms of hashish, or one kilogram of hashish oil or in the case of any controlled substance in schedule III, such person shall, except as provided in paragraphs (4) and (5) of this subsection, be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$250,000 if the defendant is an individual or \$1,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a drug felony offense has become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$500,000 if the defendant is an individual or \$2,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment.

(2) In the case of a controlled substance in schedule IV, such person shall be sentenced to a term of imprisonment of not more than 3 years, a fine not to exceed the greater of that authorized in ac-

cordance with the provisions of title 18 or \$250,000 if the defendant is an individual or \$1,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 6 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$500,000 if the defendant is an individual or \$2,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least one year in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment.

(3) In the case of a controlled substance in schedule V, such person shall be sentenced to a term of imprisonment of not more than one year, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$100,000 if the defendant is an individual or \$250,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more convictions of him for an offense punishable under this paragraph, or for a crime under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$200,000 if the defendant is an individual or \$500,000 if the defendant is other than an individual, or both.

(4) Notwithstanding paragraph (1)(D) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marihuana for no remuneration shall be treated as provided in section 844 of this title and section 3607 of title 18.

(5) Any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

(A) the amount authorized in accordance with this section;

(B) the amount authorized in accordance with the provisions of title 18;

(C) \$500,000 if the defendant is an individual; or

(D) \$1,000,000 if the defendant is other than an individual; or both.

(6) Any person who violates subsection (a) of this section, or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land, and, by such use—

(A) creates a serious hazard to humans, wildlife, or domestic animals,

(B) degrades or harms the environment or natural resources,  
or

(C) pollutes an aquifer, spring, stream, river, or body of water,

shall be fined in accordance with title 18 or imprisoned not more than five years, or both.

**(c) \* \* \* [Repealed. Pub. L. 98-473, title II, Sec. 224(a)(2).]**

**(d) Offenses involving listed chemicals**

Any person who knowingly or intentionally—

(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this subchapter;

(2) possesses or distributes a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance except as authorized by this subchapter; or

(3) with the intent of causing the evasion of the record-keeping or reporting requirements of section 830 of this title, or the regulations issued under that section, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under that section is not required;

shall be fined in accordance with title 18 or imprisoned not more than 10 years, or both.

**(e) Boobytraps on Federal property; penalties; "boobytrap" defined**

(1) Any person who assembles, maintains, places, or causes to be placed a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed shall be sentenced to a term of imprisonment for not more than 10 years and shall be fined not more than \$10,000.

(2) If any person commits such a violation after 1 or more prior convictions for an offense punishable under this subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years and shall be fined not more than \$20,000.

(3) For the purposes of this subsection, the term "boobytrap" means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.

**(f) Ten-year injunction as additional penalty**

In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, or importation of a listed chemical may be enjoined from engaging in any regulated transaction involving a listed chemical for not more than ten years.

**(g) Wrongful distribution or possession of listed chemicals**

(1) Whoever knowingly distributes a listed chemical in violation of this subchapter (other than in violation of a recordkeeping or reporting requirement of section 830 of this title) shall be fined under title 18 or imprisoned not more than 5 years, or both.

(2) Whoever possesses any listed chemical, with knowledge that the recordkeeping or reporting requirements of section 830 of this title have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation shall be fined under title 18 or imprisoned not more than one year, or both.

**Sec. 842. Prohibited acts B**

**(a) Unlawful acts**

It shall be unlawful for any person—

(1) who is subject to the requirements of part C to distribute or dispense a controlled substance in violation of section 829 of this title;

(2) who is a registrant to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person or to manufacture a controlled substance not authorized by his registration;

(3) who is a registrant to distribute a controlled substance in violation of section 825 of this title;

(4) to remove, alter, or obliterate a symbol or label required by section 825 of this title;

(5) to refuse or fail to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under this subchapter or subchapter II of this chapter;

(6) to refuse any entry into any premises or inspection authorized by this subchapter or subchapter II of this chapter;

(7) to remove, break, injure, or deface a seal placed upon controlled substances pursuant to section 824(f) or 881 of this title or to remove or dispose of substances so placed under seal;

(8) to use, to his own advantage, or to reveal, other than to duly authorized officers or employees of the United States, or to the courts when relevant in any judicial proceeding under this subchapter or subchapter II of this chapter, any information acquired in the course of an inspection authorized by this subchapter concerning any method or process which as a trade secret is entitled to protection, or to use to his own advantage or reveal (other than as authorized by section 830 of this title) any information that is confidential under such section;

(9) who is a regulated person to engage in a regulated transaction without obtaining the identification required by 830(a)(3) of this title; or

(10) to fail to keep a record or make a report under section 830 of this title.

**(b) Manufacture**

It shall be unlawful for any person who is a registrant to manufacture a controlled substance in schedule I or II which is—

- (1) not expressly authorized by his registration and by a quota assigned to him pursuant to section 826 of this title; or
- (2) in excess of a quota assigned to him pursuant to section 826 of this title.

### **(c) Penalties**

(1) Except as provided in paragraph (2), any person who violates this section shall, with respect to any such violation, be subject to a civil penalty of not more than \$25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 to enforce this paragraph.

(2)(A) If a violation of this section is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (B) of this paragraph, be sentenced to imprisonment of not more than one year or a fine of not more than \$25,000, or both.

(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under this paragraph (2), or for a crime under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marijuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of \$50,000, or both.

(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of this section does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

## **Sec. 843. Prohibited acts C**

### **(a) Unlawful acts**

It shall be unlawful for any person knowingly or intentionally—

(1) who is a registrant to distribute a controlled substance classified in schedule I or II, in the course of his legitimate business, except pursuant to an order or an order form as required by section 828 of this title;

(2) to use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, expired, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4)(A) to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed



under this subchapter or subchapter II of this chapter, or (B) to present false or fraudulent identification where the person is receiving or purchasing a listed chemical and the person is required to present identification under section 830(a) of this title;

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit substance;

(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this subchapter or subchapter II of this chapter;

(7) to manufacture, distribute, export or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having a reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this subchapter or subchapter II of this chapter or, in the case of an exportation, in violation of this subchapter or subchapter II of this chapter or of the laws of the country to which it is exported;

(8) to create a chemical mixture for the purpose of evading a requirement of section 830 of this title or to receive a chemical mixture created for that purpose; or

(9) to distribute, import, or export a list I chemical without the registration required by this subchapter or subchapter II of this chapter.

#### **(b) Communication facility**

It shall be unlawful for any person knowingly or intentionally to use any communication facility in committing or in causing or facilitating the commission of any act or acts constituting a felony under any provision of this subchapter or subchapter II of this chapter. Each separate use of a communication facility shall be a separate offense under this subsection. For purposes of this subsection, the term "communication facility" means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

(c) It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term "advertisement" includes, in addition to its ordinary meaning, such advertisement as those

for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. The term "advertisement" does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.

#### **(d) Penalties**

Any person who violates this section shall be sentenced to a term of imprisonment of not more than 4 years, a fine of not more than \$30,000, or both; except that if any person commits such a violation after one or more prior convictions of him for violation of this section, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 8 years, a fine of not more than \$60,000, or both.

#### **(e) Additional penalties**

In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, or importation of a listed chemical may be enjoined from engaging in any regulated transaction involving a listed chemical for not more than ten years.

### **Sec. 844. Penalties for simple possession**

#### **(a) Unlawful acts; penalties**

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II of this chapter. Any person who violates this subsection may be sentenced to a term of imprisonment of not more than 1 year, and shall be fined a minimum of \$1,000, or both, except that if he commits such offense after a prior conviction under this subchapter or subchapter II of this chapter, or a prior conviction for any drug or narcotic offense chargeable under the law of any State, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than 2 years, and shall be fined a minimum of \$2,500, except, further, that if he commits such offense after two or more prior convictions under this subchapter or subchapter II of this chapter, or two or more prior convictions for any drug or narcotic offense chargeable under the law of any State, or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of \$5,000. Notwithstanding the preceding sentence, a person convicted under this subsection for the possession of a mixture or substance which contains cocaine base shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of \$1,000,

if the conviction is a first conviction under this subsection and the amount of the mixture or substance exceeds 5 grams, if the conviction is after a prior conviction for the possession of such a mixture or substance under this subsection becomes final and the amount of the mixture or substance exceeds 3 grams, or if the conviction is after 2 or more prior convictions for the possession of such a mixture or substance under this subsection become final and the amount of the mixture or substance exceeds 1 gram. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provision of title 18 that the defendant lacks the ability to pay.

(b) \* \* \* [Repealed. PL. 98-473, title II, Sec. 219(a), Oct. 12, 1984, 98 Stat. 2027]

**(c) "Drug or narcotic offense" defined**

As used in this section, the term "drug or narcotic offense" means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under this subchapter.

**Sec. 844a. Civil penalty for possession of small amounts of certain controlled substances**

**(a) In general**

Any individual who knowingly possesses a controlled substance that is listed in section 841(b)(1)(A) of this title in violation of section 844 of this title in an amount that, as specified by regulation of the Attorney General, is a personal use amount shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each such violation.

**(b) Income and net assets**

The income and net assets of an individual shall not be relevant to the determination whether to assess a civil penalty under this section or to prosecute the individual criminally. However, in determining the amount of a penalty under this section, the income and net assets of an individual shall be considered.

**(c) Prior conviction**

A civil penalty may not be assessed under this section if the individual previously was convicted of a Federal or State offense relating to a controlled substance.

**(d) Limitation on number of assessments**

A civil penalty may not be assessed on an individual under this section on more than two separate occasions.

**(e) Assessment**

A civil penalty under this section may be assessed by the Attorney General only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5. The Attorney General shall provide written notice to the individual who is the subject of the proposed order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

**(f) Compromise**

The Attorney General may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

**(g) Judicial review**

If the Attorney General issues an order pursuant to subsection (e) of this section after a hearing described in such subsection, the individual who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, bring a civil action in the appropriate district court of the United States. In such action, the law and the facts of the violation and the assessment of the civil penalty shall be determined *de novo*, and shall include the right of a trial by jury, the right to counsel, and the right to confront witnesses. The facts of the violation shall be proved beyond a reasonable doubt.

**(h) Civil action**

If an individual does not request a hearing pursuant to subsection (e) of this section and the Attorney General issues an order pursuant to such subsection, or if an individual does not under subsection (g) of this section seek judicial review of such an order, the Attorney General may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28. Such interest shall accrue from the expiration of the 30-day period described in subsection (g) of this section. In such an action, the decision of the Attorney General to issue the order, and the amount of the penalty assessed by the Attorney General, shall not be subject to review.

**(i) Limitation**

The Attorney General may not under this subsection<sup>10</sup> commence proceeding against an individual after the expiration of the 5-year period beginning on the date on which the individual allegedly violated subsection (a) of this section.

**(j) Expungement procedures**

The Attorney General shall dismiss the proceedings under this section against an individual upon application of such individual at any time after the expiration of 3 years if—

<sup>10</sup> So in original. Probably should be "section".

- (1) the individual has not previously been assessed a civil penalty under this section;
- (2) the individual has paid the assessment;
- (3) the individual has complied with any conditions imposed by the Attorney General;
- (4) the individual has not been convicted of a Federal or State offense relating to a controlled substance; and
- (5) the individual agrees to submit to a drug test, and such test shows the individual to be drug free.

A nonpublic record of a disposition under this subsection shall be retained by the Department of Justice solely for the purpose of determining in any subsequent proceeding whether the person qualified for a civil penalty or expungement under this section. If a record is expunged under this subsection, an individual concerning whom such an expungement has been made shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge a proceeding under this section or the results thereof in response to an inquiry made of him for any purpose.

**Sec. 845. Transferred to Sec. 859.**

**Sec. 845a. Transferred to Sec. 860.**

**Sec. 845b. Transferred to Sec. 861.**

**Sec. 846. Attempt and conspiracy**

Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

**Sec. 847. Additional penalties**

Any penalty imposed for violation of this subchapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

**Sec. 848. Continuing criminal enterprise**

**(a) Penalties; forfeitures**

Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, and to the forfeiture prescribed in section 853 of this title; except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 30 years and which may be up to life imprisonment, to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other

than an individual, and to the forfeiture prescribed in section 853 of this title.

**(b) Life imprisonment for engaging in continuing criminal enterprise**

Any person who engages in a continuing criminal enterprise shall be imprisoned for life and fined in accordance with subsection (a) of this section, if—

(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

(2)(A) the violation referred to in subsection (d)(1) of this section involved at least 300 times the quantity of a substance described in subsection 841(b)(1)(B) of this title, or

(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received \$10 million dollars in gross receipts during any twelve-month period of its existence for the manufacture, importation, or distribution of a substance described in section 841(b)(1)(B) of this title.

**(c) "Continuing criminal enterprise" defined**

For purposes of subsection (a) of this section, a person is engaged in a continuing criminal enterprise if—

(1) he violates any provision of this subchapter or subchapter II of this chapter the punishment for which is a felony, and

(2) such violation is a part of a continuing series of violations of this subchapter or subchapter II of this chapter—

(A) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

(B) from which such person obtains substantial income or resources.

**(d) Suspension of sentence and probation prohibited**

In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended, probation shall not be granted, and the Act of July 15, 1932 (D.C. Code, secs. 24-203—24-207), shall not apply.

**(e) Death penalty**

(1) In addition to the other penalties set forth in this section—

(A) any person engaging in or working in furtherance of a continuing criminal enterprise, or any person engaging in an offense punishable under section 841(b)(1)(A) of this title or section 960(b)(1) of this title who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

(B) any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or serv-

ice of a prison sentence for, a felony violation of this subchapter or subchapter II of this chapter who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of any Federal, State, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

(2) As used in paragraph (1)(b),<sup>11</sup> the term "law enforcement officer" means a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.

**(g)<sup>12</sup> Hearing required with respect to death penalty**

A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

**(h) Notice by Government in death penalty cases**

(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

(A) that the Government in the event of conviction will seek the sentence of death; and

(B) setting forth the aggravating factors enumerated in subsection (n) of this section and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

**(i) Hearing before court or jury**

(1) When the attorney for the Government has filed a notice as required under subsection (h) of this section and the defendant is found guilty of or pleads guilty to an offense under subsection (e) of this section, the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

(A) before the jury which determined the defendant's guilt;

(B) before a jury impaneled for the purpose of the hearing if—

(i) the defendant was convicted upon a plea of guilty;

(ii) the defendant was convicted after a trial before the court sitting without a jury;

<sup>11</sup> So in original. Probably should be paragraph "(1)(B)".

<sup>12</sup> So in original. Section does not contain a subsec. (f).

(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

(2) A jury impaneled under paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

#### **(j) Proof of aggravating and mitigating factors**

Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (e) of this section, no presentence report shall be prepared. In the sentencing hearing, information may be presented as to matters relating to any of the aggravating or mitigating factors set forth in subsections (m) and (n) of this section, or any other mitigating factor or any other aggravating factor for which notice has been provided under subsection (h)(1)(B) of this section. Where information is presented relating to any of the aggravating factors set forth in subsection (n) of this section, information may be presented relating to any other aggravating factor for which notice has been provided under subsection (h)(1)(B) of this section. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial, or at the trial judge's discretion. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

#### **(k) Return of findings**

The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (n) of this section, found to exist. If one of the aggravating factors set forth in subsection (n)(1) of this section and another of the ag-



gravating factors set forth in paragraphs (2) through (12) of subsection (n) of this section is found to exist, a special finding identifying any other aggravating factor for which notice has been provided under subsection (h)(1)(B) of this section, may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (n)(1) of this section is not found to exist or an aggravating factor set forth in subsection (n)(1) of this section is found to exist but no other aggravating factor set forth in subsection (n) of this section is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (n)(1) of this section and one or more of the other aggravating factors set forth in subsection (n) of this section are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend that a sentence of death shall be imposed rather than a sentence of life imprisonment without possibility of release or some other lesser sentence. The jury or the court, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and the jury shall be so instructed.

#### **(l) Imposition of sentence**

Upon the recommendation that the sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

#### **(m) Mitigating factors**

In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether

the capacity was so impaired as to constitute a defense to the charge.

(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

(3) The defendant is punishable as a principal (as defined in section 2 of title 18) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

(5) The defendant was youthful, although not under the age of 18.

(6) The defendant did not have a significant prior criminal record.

(7) The defendant committed the offense under severe mental or emotional disturbance.

(8) Another defendant or defendants, equally culpable in the crime, will not be punished by death.

(9) The victim consented to the criminal conduct that resulted in the victim's death.

(10) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

#### **(n) Aggravating factors for homicide**

If the defendant is found guilty of or pleads guilty to an offense under subsection (e) of this section, the following aggravating factors are the only aggravating factors that shall be considered, unless notice of additional aggravating factors is provided under subsection (h)(1)(B) of this section:

(1) The defendant—

(A) intentionally killed the victim;

(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim;

(D) intentionally engaged in conduct which—

(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

(ii) resulted in the death of the victim.

(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occa-

sions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

(5) In the commission of the offense or in escaping apprehension for a violation of subsection (e) of this section, the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

(6) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

(7) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

(8) The defendant committed the offense after substantial planning and premeditation.

(9) The victim was particularly vulnerable due to old age, youth, or infirmity.

(10) The defendant had previously been convicted of violating this subchapter or subchapter II of this chapter for which a sentence of five or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

(11) The violation of this subchapter in relation to which the conduct described in subsection (e) of this section occurred was a violation of section 859<sup>13</sup> of this title.

(12) The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

#### **(c) Right of defendant to justice without discrimination**

(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant, or the victim, may be.

<sup>13</sup> Section 859 of this title, referred to in subsec. (n)(11), was in the original a reference to section 405, meaning section 405 of the Controlled Substances Act. Section 405 of the Act was renumbered section 418 by Pub. L. 101-647, title X, Sec. 1002(a)(1), Nov. 29, 1990, 104 Stat. 4827, and was transferred to section 859 of this title.

(2) Not later than one year from November 18, 1988, the Comptroller General shall conduct a study of the various procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress on whether or not any or all of the various procedures create a significant risk that the race of a defendant, or the race of a victim against whom a crime was committed, influence the likelihood that defendants in those States will be sentenced to death. In conducting the study required by this paragraph, the General Accounting Office shall—

(A) use ordinary methods of statistical analysis, including methods comparable to those ruled admissible by the courts in race discrimination cases under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(B) study only crimes occurring after January 1, 1976; and

(C) determine what, if any, other factors, including any relation between any aggravating or mitigating factors and the race of the victim or the defendant, may account for any evidence that the race of the defendant, or the race of the victim, influences the likelihood that defendants will be sentenced to death. In addition, the General Accounting Office shall examine separately and include in the report, death penalty cases involving crimes similar to those covered under this section.

**(p) Sentencing in capital cases in which death penalty is not sought or imposed**

If a person is convicted for an offense under subsection (e) of this section and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

**(q) Appeal in capital cases; counsel for financially unable defendants**

(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

(3) The court shall affirm the sentence if it determines that—

(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with, or the failure to find, any mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

(4)(A) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime which may be punishable by death, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services at any time either—

(i) before judgment; or

(ii) after the entry of a judgment imposing a sentence of death but before the execution of that judgment; shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (5), (6), (7), (8), and (9).

(B) In any post conviction proceeding under section 2254 or 2255 of title 28 seeking to vacate or set aside a death sentence, any defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (5), (6), (7), (8), and (9).

(5) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

(6) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had not less than three years experience in the handling of appeals in that court in felony cases.

(7) With respect to paragraphs (5) and (6), the court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

(8) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications,<sup>14</sup> for writ of certiorari to the Supreme Court of the United States, and all available post-conviction process, together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.

(9) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to

<sup>14</sup> So in original. The comma probably should not appear.

guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (10). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services *nunc pro tunc*.

(10) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of paragraphs (4) through (9).

**(r) Refusal to participate by State and Federal correctional employees**

No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term "participation in executions" includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

**Sec. 849. \* \* \*** [Repealed. Pub. L. 98-473, title II, Sec. 219(a), Oct. 12, 1984, 98 Stat. 2027]

**Sec. 850. Information for sentencing**

Except as otherwise provided in this subchapter or section 242a(a) of title 42, no limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence under this subchapter or subchapter II of this chapter.

**Sec. 851. Proceedings to establish prior convictions**

**(a) Information filed by United States Attorney**

(1) No person who stands convicted of an offense under this part shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon. Upon a showing by the United States attorney that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mis-

takes in the information may be amended at any time prior to the pronouncement of sentence.

(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

**(b) Affirmation or denial of previous conviction**

If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

**(c) Denial; written response; hearing**

(1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the United States attorney. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the United States attorney to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by subsection (a)(1) of this section. The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the United States attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a prior conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

**(d) Imposition of sentence**

(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of prior convictions, the court shall proceed to impose sentence upon him as provided by this part.

(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the

request of the United States attorney, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by this part. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

#### **(e) Statute of limitations**

No person who stands convicted of an offense under this part may challenge the validity of any prior conviction alleged under this section which occurred more than five years before the date of the information alleging such prior conviction.

### **Sec. 852. Application of treaties and other international agreements**

Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit the provision of treatment, education, or rehabilitation as alternatives to conviction or criminal penalty for offenses involving any drug or other substance subject to control under any such treaty or agreement.

### **Sec. 853. Criminal forfeitures**

#### **(a) Property subject to criminal forfeiture**

Any person convicted of a violation of this subchapter or subchapter II of this chapter punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—

(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;

(2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and

(3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 848 of this title, the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this subchapter or subchapter II of this chapter, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

#### **(b) Meaning of term "property"**

Property subject to criminal forfeiture under this section includes—

(1) real property, including things growing on, affixed to, and found in land; and



(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

**(c) Third party transfers**

All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (n) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

**(d) Rebuttable presumption**

There is a rebuttable presumption at trial that any property of a person convicted of a felony under this subchapter or subchapter II of this chapter is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

(1) such property was acquired by such person during the period of the violation of this subchapter or subchapter II of this chapter or within a reasonable time after such period; and

(2) there was no likely source for such property other than the violation of this subchapter or subchapter II of this chapter.

**(e) Protective orders**

(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

(A) upon the filing of an indictment or information charging a violation of this subchapter or subchapter II of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

*Provided, however,* That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

#### **(f) Warrant of seizure**

The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (e) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

#### **(g) Execution**

Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

#### **(h) Disposition of property**

Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due

provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

**(i) Authority of the Attorney General**

With respect to property ordered forfeited under this section, the Attorney General is authorized to—

- (1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this subchapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;
- (2) compromise claims arising under this section;
- (3) award compensation to persons providing information resulting in a forfeiture under this section;
- (4) direct the disposition by the United States, in accordance with the provisions of section 881(e) of this title, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and
- (5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

**(j) Applicability of civil forfeiture provisions**

Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 881(d) of this title shall apply to a criminal forfeiture under this section.

**(k) Bar on intervention**

Except as provided in subsection (n) of this section, no party claiming an interest in property subject to forfeiture under this section may—

- (1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or
- (2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

**(l) Jurisdiction to enter orders**

The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the loca-

tion of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

**(m) Depositions**

In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

**(n) Third party interests**

(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of

forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

#### **(o) Construction**

The provisions of this section shall be liberally construed to effectuate its remedial purposes.

#### **(p) Forfeiture of substitute property**

If any of the property described in subsection (a) of this section, as a result of any act or omission of the defendant—

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third party;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

**Sec. 853a. Transferred to Sec. 862**

**Sec. 854. Investment of illicit drug profits**

#### **(a) Prohibition**

It shall be unlawful for any person who has received any income derived, directly or indirectly, from a violation of this subchapter or subchapter II of this chapter punishable by imprisonment for more than one year in which such person has participated as a principal within the meaning of section 2 of title 18, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this section if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their ac-

complices in any violation of this subchapter or subchapter II of this chapter after such purchase do not amount in the aggregate to 1 per centum of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

**(b) Penalty**

Whoever violates this section shall be fined not more than \$50,000 or imprisoned not more than ten years, or both.

**(c) "Enterprise" defined**

As used in this section, the term "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

**(d) Construction**

The provisions of this section shall be liberally construed to effectuate its remedial purposes.

**Sec. 855. Alternative fine**

In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

**Sec. 856. Establishment of manufacturing operations**

(a) Except as authorized by this subchapter, it shall be unlawful to—

(1) knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance;

(2) manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

(b) Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than \$500,000, or both, or a fine of \$2,000,000 for a person other than an individual.

**Sec. 857. \* \* \*** [Repealed. Pub. L. 101-647, title XXIV, Sec. 2401(d), Nov. 29, 1990, 104 Stat. 4859]

**Sec. 858. Endangering human life while illegally manufacturing controlled substance**

Whoever, while manufacturing a controlled substance in violation of this subchapter, or attempting to do so, or transporting or causing to be transported materials, including chemicals, to do so, creates a substantial risk of harm to human life shall be fined in accordance with title 18 or imprisoned not more than 10 years, or both.

**Part E—Administrative and Enforcement Provisions****Sec. 871. Attorney General****(a) Delegation of functions**

The Attorney General may delegate any of his functions under this subchapter to any officer or employee of the Department of Justice.

**(b) Rules and regulations**

The Attorney General may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this subchapter.

**(c) Acceptance of devices, bequests, gifts, and donations**

The Attorney General may accept in the name of the Department of Justice any form of device, bequest, gift, or donation where the donor intends to donate property for the purpose of preventing or controlling the abuse of controlled substances. He may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey any such property other than moneys.

**Sec. 872. Education and research programs of Attorney General****(a) Authorization**

The Attorney General is authorized to carry out educational and research programs directly related to enforcement of the laws under his jurisdiction concerning drugs or other substances which are or may be subject to control under this subchapter. Such programs may include—

(1) educational and training programs on drug abuse and controlled substances law enforcement for local, State, and Federal personnel;

(2) studies or special projects designed to compare the deterrent effects of various enforcement strategies on drug use and abuse;

(3) studies or special projects designed to assess and detect accurately the presence in the human body of drugs or other substances which are or may be subject to control under this subchapter, including the development of rapid field identification methods which would enable agents to detect microquantities of such drugs or other substances;

(4) studies or special projects designed to evaluate the nature and sources of the supply of illegal drugs throughout the country;

(5) studies or special projects to develop more effective methods to prevent diversion of controlled substances into illegal channels; and

(6) studies or special projects to develop information necessary to carry out his functions under section 811 of this title.

### **(b) Contracts**

The Attorney General may enter into contracts for such educational and research activities without performance bonds and without regard to section 5 of title 41.

### **(c) Identification of research populations; authorization to withhold**

The Attorney General may authorize persons engaged in research to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

### **(d) Affect of treaties and other international agreements on confidentiality**

Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.

### **(e) Use of controlled substances in research**

The Attorney General, on his own motion or at the request of the Secretary, may authorize the possession, distribution, and dispensing of controlled substances by persons engaged in research. Persons who obtain this authorization shall be exempt from State or Federal prosecution for possession, distribution, and dispensing of controlled substances to the extent authorized by the Attorney General.

### **(f) Program to curtail diversion of precursor and essential chemicals**

The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances.

## **Sec. 873. Cooperative arrangements<sup>15</sup>**

### **(a) Cooperation of Attorney General with local, State, and Federal agencies**

The Attorney General shall cooperate with local, State, and Federal agencies concerning traffic in controlled substances and in sup-

<sup>15</sup> Section 8056 of the Department of Defense Authorizations Act of 1994, P.L. 103-139, 21 USC 873 note, provides as follows:

"Sec. 8056. During the current fiscal year and thereafter, there is established, under the direction and control of the Attorney General, the National Drug Intelligence Center, whose mission it shall be to coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations: *Provided*, That funding for the operation of the National Drug Intelligence Center, including personnel costs associated therewith, shall be provided from the funds appropriated to the Department of Defense."



pressing the abuse of controlled substances. To this end, he is authorized to—

(1) arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;

(2) cooperate in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States;

(3) conduct training programs on controlled substance law enforcement for local, State, and Federal personnel;

(4) maintain in the Department of Justice a unit which will accept, catalog, file, and otherwise utilize all information and statistics, including records of controlled substance abusers and other controlled substance law offenders, which may be received from Federal, State, and local agencies, and make such information available for Federal, State, and local law enforcement purposes;

(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted;

(6) assist State and local governments in suppressing the diversion of controlled substances from legitimate medical, scientific, and commercial channels by—

(A) making periodic assessments of the capabilities of State and local governments to adequately control the diversion of controlled substances;

(B) providing advice and counsel to State and local governments on the methods by which such governments may strengthen their controls against diversion; and

(C) establishing cooperative investigative efforts to control diversion; and

(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this chapter.<sup>16</sup>

**(b) Requests by Attorney General for assistance from Federal agencies or instrumentalities**

When requested by the Attorney General, it shall be the duty of any agency or instrumentality of the Federal Government to furnish assistance, including technical advice, to him for carrying out his functions under this subchapter; except that no such agency or instrumentality shall be required to furnish the name of, or other identifying information about, a patient or research subject whose identity it has undertaken to keep confidential.

<sup>16</sup>This chapter, referred to in subsec. (a)(7), was in the original as added by Pub. L. 99-646 "this Act", meaning Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1236, as amended. In the subsec. (a)(7) added by Pub. L. 99-570, the reference was "this title", meaning title II of Pub. L. 91-513, which is popularly known as the "Controlled Substances Act" and is classified principally to this subchapter.

**(c) Descriptive and analytic reports by Attorney General to State agencies of distribution patterns of schedule II substances having highest rates of abuse**

The Attorney General shall annually (1) select the controlled substances (or controlled substances) contained in schedule II which, in the Attorney General's discretion, is determined to have the highest rate of abuse, and (2) prepare and make available to regulatory, licensing, and law enforcement agencies of States descriptive and analytic reports on the actual distribution patterns in such States of each such controlled substance.

**(d) Grants by Attorney General**

(1) The Attorney General may make grants, in accordance with paragraph (2), to State and local governments to assist in meeting the costs of—

(A) collecting and analyzing data on the diversion of controlled substances,

(B) conducting investigations and prosecutions of such diversions,

(C) improving regulatory controls and other authorities to control such diversions,

(D) programs to prevent such diversions,

(E) preventing and detecting forged prescriptions, and

(F) training law enforcement and regulatory personnel to improve the control of such diversions.

(2) No grant may be made under paragraph (1) unless an application therefor is submitted to the Attorney General in such form and manner as the Attorney General may prescribe. No grant may exceed 80 per centum of the costs for which the grant is made, and no grant may be made unless the recipient of the grant provides assurances satisfactory to the Attorney General that it will obligate funds to meet the remaining 20 per centum of such costs. The Attorney General shall review the activities carried out with grants under paragraph (1) and shall report annually to Congress on such activities.

(3) To carry out this subsection there is authorized to be appropriated \$6,000,000 for fiscal year 1985 and \$6,000,000 for fiscal year 1986.

**Sec. 874. Advisory committees**

The Attorney General may from time to time appoint committees to advise him with respect to preventing and controlling the abuse of controlled substances. Members of the committees may be entitled to receive compensation at the rate of \$100 for each day (including traveltime) during which they are engaged in the actual performance of duties. While traveling on official business in the performance of duties for the committees, members of the committees shall be allowed expenses of travel, including per diem instead of subsistence, in accordance with subchapter I of chapter 57 of title 5.

## **Sec. 875. Administrative hearings**

### **(a) Power of Attorney General**

In carrying out his functions under this subchapter, the Attorney General may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States.

### **(b) Procedures applicable**

Except as otherwise provided in this subchapter, notice shall be given and hearings shall be conducted under appropriate procedures of subchapter II of chapter 5 of title 5.

## **Sec. 876. Subpoenas**

### **(a) Authorization of use by Attorney General**

In any investigation relating to his functions under this subchapter with respect to controlled substances, listed chemicals, tableting machines, or encapsulating machines, the Attorney General may subpoena witnesses, compel the attendance and testimony of witnesses, and require the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Attorney General finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing; except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

### **(b) Service**

A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered a true copy thereof by the person serving it shall be proof of service.

### **(c) Enforcement**

In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony

touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

### **Sec. 877. Judicial review**

All final determinations, findings, and conclusions of the Attorney General under this subchapter shall be final and conclusive decisions of the matters involved, except that any person aggrieved by a final decision of the Attorney General may obtain review of the decision in the United States Court of Appeals for the District of Columbia or for the circuit in which his principal place of business is located upon petition filed with the court and delivered to the Attorney General within thirty days after notice of the decision. Findings of fact by the Attorney General, if supported by substantial evidence, shall be conclusive.

### **Sec. 878. Powers of enforcement personnel**

(a) Any officer or employee of the Drug Enforcement Administration or any State or local law enforcement officer designated by the Attorney General may—

(1) carry firearms;

(2) execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of the United States;

(3) make arrests without warrant (A) for any offense against the United States committed in his presence, or (B) for any felony, cognizable under the laws of the United States, if he has probable cause to believe that the person to be arrested has committed or is committing a felony;

(4) make seizures of property pursuant to the provisions of this subchapter; and

(5) perform such other law enforcement duties as the Attorney General may designate.

(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5.

### **Sec. 879. Search warrants**

A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the judge or United States magistrate judge issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

### **Sec. 880. Administrative inspections and warrants**

#### **(a) "Controlled premises" defined**

As used in this section, the term "controlled premises" means—

(1) places where original or other records or documents required under this subchapter are kept or required to be kept, and

(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 (or exempt from registration under section 822(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained.

**(b) Grant of authority; scope of inspections**

(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this subchapter and otherwise facilitating the carrying out of his functions under this subchapter, the Attorney General is authorized, in accordance with this section, to enter controlled premises and to conduct administrative inspections thereof, and of the things specified in this section, relevant to those functions.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Attorney General. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) a written notice of his inspection authority (which notice in the case of an inspection requiring, or in fact supported by, an administrative inspection warrant shall consist of such warrant), shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except as may otherwise be indicated in an applicable inspection warrant, the inspector shall have the right—

(A) to inspect and copy records, reports, and other documents required to be kept or made under this subchapter;

(B) to inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished drugs, listed chemicals and other substances or materials, containers, and labeling found therein, and, except as provided in paragraph (4) of this subsection, all other things therein (including records, files, papers, processes, controls, and facilities) appropriate for verification of the records, reports, and documents referred to in clause (A) or otherwise bearing on the provisions of this subchapter; and

(C) to inventory any stock of any controlled substance or listed chemical therein and obtain samples of any such substance or chemical.

(4) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data; or

(C) pricing data.

**(c) Situations not requiring warrants**

A warrant under this section shall not be required for the inspection of books and records pursuant to an administrative subpoena

issued in accordance with section 876 of this title, nor for entries and administrative inspections (including seizures of property)—

(1) with the consent of the owner, operator, or agent in charge of the controlled premises;

(2) in situations presenting imminent danger to health or safety;

(3) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(4) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(5) in any other situations where a warrant is not constitutionally required.

**(d) Administrative inspection warrants; issuance; execution; probable cause**

Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate judge, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this subchapter or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this subchapter or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or conveyance, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate judge and establishing the grounds for issuing the warrant. If the judge or magistrate judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (b)(2) of this section to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate judge to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing by the United States of a need therefor, the judge or

magistrate judge allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate judge, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and the applicant for the warrant.

(4) The judge or magistrate judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

## **Sec. 881. Forfeitures**

### **(a) Subject property**

The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this subchapter.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this subchapter.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1), (2), or (9).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), (2), or (9), except that—

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this subchapter or subchapter II of this chapter;

(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than

the owner in violation of the criminal laws of the United States, or of any State; and

(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this subchapter.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this subchapter punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(8) All controlled substances which have been possessed in violation of this subchapter.

(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, imported, or exported, in violation of a felony provision of this subchapter or subchapter II of this chapter.

(10) Any drug paraphernalia (as defined in section 1822 of the Mail Order Drug Paraphernalia Control Act).<sup>17</sup>

(11) Any firearm (as defined in section 921 of title 18) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.

<sup>17</sup> Section 1822 of the Mail Order Drug Paraphernalia Control Act, referred to in subsec. (a)(10), is section 1822 of Pub.L. 99-570, title I, Oct. 27, 1986, 100 Stat. 3207-51, which was repealed by Pub.L. 101-647, title XXIV, Sec. 2401(d), Nov. 29, 1990, 104 Stat. 4859. Prior to repeal, subsec. (d) of section 1822 of Pub.L. 99-570, which defined "drug paraphernalia", was transferred to subsec. (d) of section 422 of title II of Pub.L. 91-513, the Controlled Substances Act. Section 422 of Pub.L. 91-513 is classified to section 863 of this title.



**(b) Seizure pursuant to Supplemental Rules for Certain Admiralty and Maritime Claims; issuance of warrant authorizing seizure**

Any property subject to civil forfeiture to the United States under this subchapter may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this subchapter;

(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the Attorney General has probable cause to believe that the property is subject to civil forfeiture under this subchapter.

In the event of seizure pursuant to paragraph (3) or (4) of this subsection, proceedings under subsection (d) of this section shall be instituted promptly.

The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

**(c) Custody of Attorney General**

Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

**(d) Other laws and proceedings applicable**

The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this subchapter, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or other persons as

may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

**(e) Disposition of forfeited property**

(1) Whenever property is civilly or criminally forfeited under this subchapter the Attorney General may—

(A) retain the property for official use or, in the manner provided with respect to transfers under section 1616a of title 19, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

(B) except as provided in paragraph (4), sell, by public sale or any other commercially feasible means, any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

(D) forward it to the Bureau of Narcotics and Dangerous Drugs for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General); or

(E) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(i) has been agreed to by the Secretary of State;

(ii) is authorized in an international agreement between the United States and the foreign country; and

(iii) is made to a country which, if applicable, has been certified under section 2291j of title 22.

(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this subchapter shall be used to pay—

(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

(ii) awards of up to \$100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A), except that, with respect to forfeitures conducted by the Postal Service, the Postal Service shall deposit in the Postal Service Fund, under section 2003(b)(7) of title 39, such moneys and proceeds.

(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this subchapter, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

(i) such use will be the principal use of the property; and

(ii) title to the property reverts to the United States in the event that the property is used otherwise.

**(f) Forfeiture and destruction of schedule I and II substances**

(1) All controlled substances in schedule I or II that are possessed, transferred, sold, or offered for sale in violation of the provisions of this subchapter; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) of this section which cannot be separated safely from such raw materials or products shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I or II, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this subchapter; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) of this section which cannot be separated safely from such raw materials or products under such circumstances as the Attorney General may deem necessary.

### **(g) Plants**

(1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this subchapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

### **(h) Vesting of title in United States**

All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

### **(i) Stay of civil forfeiture proceedings**

The filing of an indictment or information alleging a violation of this subchapter or subchapter II of this chapter, or a violation of State or local law that could have been charged under this subchapter or subchapter II of this chapter, which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

### **(j) Venue**

In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

### **(l) <sup>18</sup> Agreement between Attorney General and Postal Service for performance of functions**

The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.

<sup>18</sup> So in original. No subsec. (k) has been enacted.

**Sec. 881-1. Transferred to Sec. 888.**

**Sec. 881a. Transferred to Sec. 889.**

**Sec. 882. Injunctions**

**(a) Jurisdiction**

The district courts of the United States and all courts exercising general jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this subchapter.

**(b) Jury trial**

In case of an alleged violation of an injunction or restraining order issued under this section, trial shall, upon demand of the accused, be by a jury in accordance with the Federal Rules of Civil Procedure.

**Sec. 883. Enforcement proceedings**

Before any violation of this subchapter is reported by the Administrator of the Drug Enforcement Administration to any United States attorney for institution of a criminal proceeding, the Administrator may require that the person against whom such proceeding is contemplated is given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

**Sec. 884. Immunity and privilege**

**(a) Refusal to testify**

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before a court or grand jury of the United States, involving a violation of this subchapter, and the person presiding over the proceeding communicates to the witness an order issued under this section, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. But no testimony or other information compelled under the order issued under subsection (b) of this section or any information obtained by the exploitation of such testimony or other information, may be used against the witness in any criminal case, including any criminal case brought in a court of a State, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

**(b) Order of United States district court**

In the case of any individual who has been or may be called to testify or provide other information at any proceeding before a court or grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, upon the request of the United States attorney for such district, an order requiring such individual to give any testimony or provide any other information which he refuses to give or provide on the basis of his privilege against self-incrimination.

**(c) Request by United States attorney**

A United States attorney may, with the approval of the Attorney General or the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General designated by the Attorney General, request an order under subsection (b) of this section when in his judgment—

- (1) the testimony or other information from such individual may be necessary to the public interest; and
- (2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

**Sec. 885. Burden of proof; liabilities**

**(a) Exemptions and exceptions; presumption in simple possession offenses**

(1) It shall not be necessary for the United States to negative any exemption or exception set forth in this subchapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this subchapter, and the burden of going forward with the evidence with respect to any such exemption or exception shall be upon the person claiming its benefit.

(2) In the case of a person charged under section 844(a) of this title with the possession of a controlled substance, any label identifying such substance for purposes of section 353(b)(2) of this title shall be admissible in evidence and shall be prima facie evidence that such substance was obtained pursuant to a valid prescription from a practitioner while acting in the course of his professional practice.

**(b) Registration and order forms**

In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this subchapter, he shall be presumed not to be the holder of such registration or form, and the burden of going forward with the evidence with respect to such registration or form shall be upon him.

**(c) Use of vehicles, vessels, and aircraft**

The burden of going forward with the evidence to establish that a vehicle, vessel, or aircraft used in connection with controlled substances in schedule I was used in accordance with the provisions of this subchapter shall be on the persons engaged in such use.

**(d) Immunity of Federal, State, local and other officials**

Except as provided in section 2234 and 2235 of title 18, no civil or criminal liability shall be imposed by virtue of this subchapter upon any duly authorized Federal officer lawfully engaged in the enforcement of this subchapter, or upon any duly authorized officer of any State, territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

## **Sec. 886. Payments and advances**

### **(a) Payment to informers**

The Attorney General is authorized to pay any person, from funds appropriated for the Drug Enforcement Administration, for information concerning a violation of this subchapter, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law.

### **(b) Reimbursement for purchase of controlled substances**

Moneys expended from appropriations of the Drug Enforcement Administration for purchase of controlled substances and subsequently recovered shall be reimbursed to the current appropriation for the Administration.

### **(c) Advance of funds for enforcement purposes**

The Attorney General is authorized to direct the advance of funds by the Treasury Department in connection with the enforcement of this subchapter.

### **(d) Drug Pollution Fund**

(1) There is established in the Treasury a trust fund to be known as the "Drug Pollution Fund" (hereinafter referred to in this subsection as the "Fund"), consisting of amounts appropriated or credited to such Fund under section 841(b)(6) of this title.

(2) There are hereby appropriated to the Fund amounts equivalent to the fines imposed under section 841(b)(6) of this title.

(3) Amounts in the Fund shall be available, as provided in appropriations Acts, for the purpose of making payments in accordance with paragraph (4) for the clean up of certain pollution resulting from the actions referred to in section 841(b)(6) of this title.

(4)(A) The Secretary of the Treasury, after consultation with the Attorney General, shall make payments under paragraph (3), in such amounts as the Secretary determines appropriate, to the heads of executive agencies or departments that meet the requirements of subparagraph (B).

(B) In order to receive a payment under paragraph (3), the head of an executive agency or department shall submit an application in such form and containing such information as the Secretary of the Treasury shall by regulation require. Such application shall contain a description of the fine imposed under section 841(b)(6) of this title, the circumstances surrounding the imposition of such fine, and the type and severity of pollution that resulted from the actions to which such fine applies.

(5) For purposes of subchapter B of chapter 98 of title 26, the Fund established under this paragraph shall be treated in the same manner as a trust fund established under subchapter A of such chapter.

## **Sec. 886a. Diversion Control Fee Account.**

There is established in the general fund of the Treasury a separate account which shall be known as the Diversion Control Fee Account. For fiscal year 1993 and thereafter:

(1) There shall be deposited as offsetting receipts into that account all fees collected by the Drug Enforcement Administration, in excess of \$15,000,000, for the operation of its diversion control program.

(2) Such amounts as are deposited into the Diversion Control Fee Account shall remain available until expended and shall be refunded out of that account by the Secretary of the Treasury, at least on a quarterly basis, to reimburse the Drug Enforcement Administration for expenses incurred in the operation of the diversion control program.

(3) Fees charged by the Drug Enforcement Administration under its diversion control program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program.

(4) The amount required to be refunded from the Diversion Control Fee Account for fiscal year 1994 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate fifteen days in advance.

(5) The Attorney General shall prepare and submit annually to the Congress, statements of financial condition of the account, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.

#### **Sec. 887. Coordination and consolidation of post-seizure administration**

The Attorney General and the Secretary of the Treasury shall take such action as may be necessary to develop and maintain a joint plan to coordinate and consolidate post-seizure administration of property seized under this subchapter, subchapter II of this chapter, or provisions of the customs laws relating to controlled substances.

#### **Sec. 888. Expedited procedures for seized conveyances**

(a) Petition for expedited decision; determination

(1) The owner of a conveyance may petition the Attorney General for an expedited decision with respect to the conveyance, if the conveyance is seized for a drug-related offense and the owner has filed the requisite claim and cost bond in the manner provided in section 1608 of title 19. The Attorney General shall make a determination on a petition under this section expeditiously, including a determination of any rights or defenses available to the petitioner. If the Attorney General does not grant or deny a petition under this section within 20 days after the date on which the petition is filed, the conveyance shall be returned to the owner pending further forfeiture proceedings.

(2) With respect to a petition under this section, the Attorney General may—

(A) deny the petition and retain possession of the conveyance;



(B) grant the petition, move to dismiss the forfeiture action, if filed, and promptly release the conveyance to the owner; or  
 (C) advise the petitioner that there is not adequate information available to determine the petition and promptly release the conveyance to the owner.

(3) Release of a conveyance under subsection (a)(1) or (a)(2)(C) of this section does not affect any forfeiture action with respect to the conveyance.

(4) The Attorney General shall prescribe regulations to carry out this section.

(b) Written notice of procedures

At the time of seizure, the officer making the seizure shall furnish to any person in possession of the conveyance a written notice specifying the procedures under this section. At the earliest practicable opportunity after determining ownership of the seized conveyance, the head of the department or agency that seizes the conveyance shall furnish a written notice to the owner and other interested parties (including lienholders) of the legal and factual basis of the seizure.

(c) Complaint for forfeiture

Not later than 60 days after a claim and cost bond have been filed under section 1608 of title 19 regarding a conveyance seized for a drug-related offense, the Attorney General shall file a complaint for forfeiture in the appropriate district court, except that the court may extend the period for filing for good cause shown or on agreement of the parties. If the Attorney General does not file a complaint as specified in the preceding sentence, the court shall order the return of the conveyance to the owner and the forfeiture may not take place.

(d) Bond for release of conveyance

Any owner of a conveyance seized for a drug-related offense may obtain release of the conveyance by providing security in the form of a bond to the Attorney General in an amount equal to the value of the conveyance unless the Attorney General determines the conveyance should be retained (1) as contraband, (2) as evidence of a violation of law, or (3) because, by reason of design or other characteristic, the conveyance is particularly suited for use in illegal activities.

## **Sec. 889. Production control of controlled substances**

(a) Definitions

As used in this section:

(1) The term "controlled substance" has the same meaning given such term in section 802(6) of this title.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "State" means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(b) Persons ineligible for Federal agricultural program benefits

Notwithstanding any other provision of law, following December 23, 1985, any person who is convicted under Federal or State law

of planting, cultivation, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for—

(1) as to any commodity produced during that crop year, and the four succeeding crop years, by such person—

(A) any price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(B) a farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(C) crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(D) a disaster payment made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

(E) a loan made, insured or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration; or

(2) a payment made under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b or 714c) for the storage of an agricultural commodity that is—

(A) produced during that crop year, or any of the four succeeding crop years, by such person; and

(B) acquired by the Commodity Credit Corporation.

(c) Regulations

Not later than 180 days after December 23, 1985, the Secretary shall issue such regulations as the Secretary determines are necessary to carry out this section, including regulations that—

(1) define the term “person”;

(2) govern the determination of persons who shall be ineligible for program benefits under this section; and

(3) protect the interests of tenants and sharecroppers. this section.

## Part F—General Provisions

### Sec. 901. Severability

If a provision of this chapter is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this chapter is held invalid in one or more of its applications, the provision shall remain in effect in all its valid applications that are severable.

### Sec. 902. Savings provisions

Nothing in this chapter, except this part and, to the extent of any inconsistency, sections 827(e) and 829 of this title, shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

### Sec. 903. Application of State law

No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which

that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together.

**Sec. 904. Payment of tort claims**

Notwithstanding section 2680(k) of title 28, the Attorney General, in carrying out the functions of the Department of Justice under this subchapter, is authorized to pay tort claims in the manner authorized by section 2672 of title 28, when such claims arise in a foreign country in connection with the operations of the Drug Enforcement Administration abroad.

## **B. Controlled Substances Import and Export Act<sup>1</sup>**

21 U.S.C.

### **CHAPTER 13, SUBCHAPTER II—"IMPORT AND EXPORT"**

#### **Sec. 951. Definitions**

(a) For purposes of this subchapter—

(1) The term "import" means, with respect to any article, any bringing in or introduction of such article into any area (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

(2) The term "customs territory of the United States" has the meaning assigned to such term by general note 2 of the Harmonized Tariff Schedule of the United States.

(b) Each term defined in section 802 of this title shall have the same meaning for purposes of this subchapter as such term has for purposes of subchapter I of this chapter.

#### **Sec. 952. Importation of controlled substances**

(a) **Controlled substances in schedule I or II and narcotic drugs in schedule III, IV, or V; exceptions**

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of subchapter I of this chapter, or any narcotic drug in schedule III, IV, or V of subchapter I of this chapter, except that—

(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and

(2) such amounts of any controlled substance in schedule I or II or any narcotic drug in schedule III, IV, or V that the Attorney General finds to be necessary to provide for the medical, scientific, or other legitimate needs of the United States—

(A) during an emergency in which domestic supplies of such substance or drug are found by the Attorney General to be inadequate,

(B) in any case in which the Attorney General finds that competition among domestic manufacturers of the controlled substance is inadequate and will not be rendered

<sup>1</sup>THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT was originally passed as Title III of Public Law 91-513, the Comprehensive Drug Abuse Prevention and Control Act of 1970, October 27, 1970, 84 STAT 1285.

adequate by the registration of additional manufacturers under section 823 of this title, or

(C) in any case in which the Attorney General finds that such controlled substance is in limited quantities exclusively for scientific, analytical, or research uses, may be so imported under such regulations as the Attorney General shall prescribe. No crude opium may be so imported for the purpose of manufacturing heroin or smoking opium.

**(b) Nonnarcotic controlled substances in schedule III, IV, or V**

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any nonnarcotic controlled substance in schedule III, IV, or V, unless such nonnarcotic controlled substance—

(1) is imported for medical, scientific, or other legitimate uses, and

(2) is imported pursuant to such notification, or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such import permit, notification, or declaration, as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.

**(c) Coca leaves**

In addition to the amount of coca leaves authorized to be imported into the United States under subsection (a) of this section, the Attorney General may permit the importation of additional amounts of coca leaves. All cocaine and ecgonine (and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made) contained in such additional amounts of coca leaves imported under this subsection shall be destroyed under the supervision of an authorized representative of the Attorney General.

**Sec. 953. Exportation of controlled substances**

**(a) Narcotic drugs in schedule I, II, III, or IV**

It shall be unlawful to export from the United States any narcotic drug in schedule I, II, III, or IV unless—

(1) it is exported to a country which is a party to—

(A) the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925; or

(B) the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the

scope of the convention on July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948; or

(C) the Single Convention on Narcotic Drugs, 1961, signed at New York, March 30, 1961;

(2) such country has instituted and maintains, in conformity with the conventions to which it is a party, a system for the control of imports of narcotic drugs which the Attorney General deems adequate;

(3) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import, and a permit or license to import such drug has been issued by the country of import;

(4) substantial evidence is furnished to the Attorney General by the exporter that (A) the narcotic drug is to be applied exclusively to medical or scientific uses within the country of import, and (B) there is an actual need for the narcotic drug for medical or scientific uses within such country; and

(5) a permit to export the narcotic drug in each instance has been issued by the Attorney General.

**(b) Exception for exportation for special scientific purposes**

Notwithstanding subsection (a) of this section, the Attorney General may authorize any narcotic drug (including crude opium and coca leaves) in schedule I, II, III, or IV to be exported from the United States to a country which is a party to any of the international instruments mentioned in subsection (a) of this section if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

**(c) Nonnarcotic controlled substances in schedule I or II**

It shall be unlawful to export from the United States any nonnarcotic controlled substance in schedule I or II unless—

(1) it is exported to a country which has instituted and maintains a system which the Attorney General deems adequate for the control of imports of such substances;

(2) the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of the country of import;

(3) substantial evidence is furnished to the Attorney General that (A) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country to which exported, (B) it will not be exported from such country, and (C) there is an actual need for the controlled substance for medical, scientific, or other legitimate uses within the country; and

(4) a permit to export the controlled substance in each instance has been issued by the Attorney General.

**(d) Exception for exportation for special scientific purposes**

Notwithstanding subsection (c) of this section, the Attorney General may authorize any nonnarcotic controlled substance in schedule I or II to be exported from the United States if the particular substance is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

**(e) Nonnarcotic controlled substances in schedule III or IV; controlled substances in schedule V**

It shall be unlawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substances in schedule V unless—

(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination for consumption for medical, scientific, or other legitimate purposes;

(2) it is exported pursuant to such notification or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such export permit, notification, or declaration as the Attorney General may by regulation prescribe; and

(3) in the case of a nonnarcotic controlled substance in schedule IV or V which is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.

**Sec. 954. Transshipment and in-transit shipment of controlled substances**

Notwithstanding sections 952, 953, and 957 of this title—

(1) A controlled substance in schedule I may—

(A) be imported into the United States for transshipment to another country, or

(B) be transferred or transshipped from one vessel, vehicle, or aircraft to another vessel, vehicle, or aircraft within the United States for immediate exportation,

if and only if it is so imported, transferred, or transshipped (i) for scientific, medical, or other legitimate purposes in the country of destination, and (ii) with the prior written approval of the Attorney General (which shall be granted or denied within 21 days of the request).

(2) A controlled substance in schedule II, III, or IV may be so imported, transferred, or transshipped if and only if advance notice is given to the Attorney General in accordance with regulations of the Attorney General.

**Sec. 955. Possession on board vessels, etc., arriving in or departing from United States**

It shall be unlawful for any person to bring or possess on board any vessel or aircraft, or on board any vehicle of a carrier, arriving in or departing from the United States or the customs territory of the United States, a controlled substance in schedule I or II or a narcotic drug in schedule III or IV, unless such substance or drug

is a part of the cargo entered in the manifest or part of the official supplies of the vessel, aircraft, or vehicle.

## **Sec. 956. Exemption authority**

### **(a) Individual possessing controlled substance**

The Attorney General may by regulation exempt from sections 952(a) and (b), 953, 954, and 955 of this title any individual who has a controlled substance (except a substance in schedule I) in his possession for his personal medical use, or for administration to an animal accompanying him, if he lawfully obtained such substance and he makes such declaration (or gives such other notification) as the Attorney General may by regulation require.

### **(b) Compound, mixture, or preparation**

The Attorney General may by regulation except any compound, mixture, or preparation containing any depressant or stimulant substance listed in paragraph (a) or (b) of schedule III or in schedule IV or V from the application of all or any part of this subchapter if (1) the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and (2) such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

## **Sec. 957. Persons required to register**

### **(a) Coverage**

No person may—

(1) import into the customs territory of the United States from any place outside thereof (but within the United States), or import into the United States from any place outside thereof, any controlled substance or list I chemical, or

(2) export from the United States any controlled substance or list I chemical unless there is in effect with respect to such person a registration issued by the Attorney General under section 958 of this title, or unless such person is exempt from registration under subsection (b) of this section.

### **(b) Exemptions**

(1) The following persons shall not be required to register under the provisions of this section and may lawfully possess a controlled substance or list I chemical:

(A) An agent or an employee of any importer or exporter registered under section 958 of this title if such agent or employee is acting in the usual course of his business or employment.

(B) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance or list I chemical is in the usual course of his business or employment.



(C) An ultimate user who possesses such substance for a purpose specified in section 802(25)<sup>2</sup> of this title and in conformity with an exemption granted under section 956(a) of this title.

(2) The Attorney General may, by regulation, waive the requirement for registration of certain importers and exporters if he finds it consistent with the public health and safety; and may authorize any such importer or exporter to possess controlled substances or list I chemicals for purposes of importation and exportation.

## **Sec. 958. Registration requirements**

### **(a) Applicants to import or export controlled substances in schedule I or II**

The Attorney General shall register an applicant to import or export a controlled substance in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. In determining the public interest, the factors enumerated in paragraph (1) through (6) of section 823(a) of this title shall be considered.

### **(b) Activity limited to specified substances**

Registration granted under this section shall not entitle a registrant to import or export controlled substances other than specified in the registration.

### **(c)(1) Applicants to import controlled substances in schedule III, IV, or V or to export controlled substances in schedule III or IV**

The Attorney General shall register an applicant to import a controlled substance in schedule III, IV, or V or to export a controlled substance in schedule III or IV, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (6) of section 823(d) of this title shall be considered.

(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 802(39)(A)(iv).

(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 823(h).

### **(d) Denial of application**

(1) The Attorney General may deny an application for registration under subsection (a) of this section if he is unable to determine that such registration is consistent with the public interest (as de-

<sup>2</sup>Section 802(25) of this title, referred to in subsec. (b)(1)(C), was redesignated section 802(26) of this title by Pub. L. 98-473, title II, Sec. 507(a), Oct. 12, 1984, 98 Stat. 2071, and was further redesignated section 802(27) of this title by Pub. L. 99-570, title I, Sec. 1003(b)(2), Oct. 27, 1986, 100 Stat. 3207-6.

fined in subsection (a) of this section) and with the United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971.

(2) The Attorney General may deny an application for registration under subsection (c) of this section, or revoke or suspend a registration under subsection (a) or (c) of this section, if he determines that such registration is inconsistent with the public interest (as defined in subsection (a) or (c) of this section) or with the United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971.

(3) The Attorney General may limit the revocation or suspension of a registration to the particular controlled substance or substances, or list I chemical or chemicals, with respect to which grounds for revocation or suspension exist.

(4) Before taking action pursuant to this subsection, the Attorney General shall serve upon the applicant or registrant an order to show cause as to why the registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General, or his designee, at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this subsection in accordance with subchapter II of chapter 5 of title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.

(5) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this subsection, in cases where he finds that there is an imminent danger to the public health and safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

(6) In the event that the Attorney General suspends or revokes a registration granted under this section, all controlled substances or list I chemicals owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be seized or placed under seal. No disposition may be made of any controlled substances or list I chemicals under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, except that a court, upon application therefor, may at any time order the sale of perishable controlled substances or list I chemicals. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances or list I chemicals (or proceeds of the sale thereof which have been deposited with the court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances or list I chemicals in accordance with section 881(e) of this title.

**(e) Registration period**

No registration shall be issued under this subchapter for a period in excess of one year. Unless the regulations of the Attorney General otherwise provide, sections 822(f), 825, 827, and 830 of this title shall apply to persons registered under this section to the same extent such sections apply to persons registered under section 827 of this title.

**(f) Rules and regulations**

The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration of importers and exporters of controlled substances or list I chemicals under this section.

**(g) Scope of authorized activity**

Persons registered by the Attorney General under this section to import or export controlled substances or list I chemicals may import or export (and for the purpose of so importing or exporting, may possess) such substances to the extent authorized by their registration and in conformity with the other provisions of this subchapter and subchapter I of this chapter.

**(h) Separate registrations for each principal place of business**

A separate registration shall be required at each principal place of business where the applicant imports or exports controlled substances or list I chemicals.

**(i) Emergency situations**

Except in emergency situations as described in section 952(a)(2)(A) of this title, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 952(a) of this title authorizing the importation of such a substance, the Attorney General shall give manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

**Sec. 959. Possession, manufacture, or distribution of controlled substance**

**(a) Manufacture or distribution for purpose of unlawful importation**

It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or II—

(1) intending that such substance will be unlawfully imported into the United States or into waters within a distance of 12 miles of the coast of the United States; or

(2) knowing that such substance will be unlawfully imported into the United States or into waters within a distance of 12 miles of the coast of the United States.

**(b) Possession, manufacture, or distribution by person on board aircraft**

It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to—

- (1) manufacture or distribute a controlled substance; or
- (2) possess a controlled substance with intent to distribute.

**(c) Acts committed outside territorial jurisdiction of United States; venue**

This section is intended to reach acts of manufacture or distribution committed outside the territorial jurisdiction of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.

**Sec. 960. Prohibited acts A**

**(a) Unlawful acts**

Any person who—

- (1) contrary to section 952, 953, or 957 of this title, knowingly or intentionally imports or exports a controlled substance,
- (2) contrary to section 955 of this title, knowingly or intentionally brings or possesses on board a vessel, aircraft, or vehicle a controlled substance, or
- (3) contrary to section 959 of this title, manufactures, possesses with intent to distribute, or distributes a controlled substance,

shall be punished as provided in subsection (b) of this section.

**(b) Penalties**

(1) In the case of a violation of subsection (a) of this section involving—

(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

(C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N- [ 1- ( 2-phenylethyl ) -4-piperidiny] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl propanamide;

(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana; or

(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than 20 years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$8,000,000 if the defendant is an individual or \$20,000,000 if the defendant is other than an individual, or both. Any sentence under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

(2) In the case of a violation of subsection (a) of this section involving—

(A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

(B) 500 grams or more of a mixture or substance containing a detectable amount of—

(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

(C) 5 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

(D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N- [ 1- ( 2-phenylethyl ) -4-piperidinyl ] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl propanamide;

(G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana; or

(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this paragraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

(3) In the case of a violation under subsection (a) of this section involving a controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1), (2), and (4), be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to

exceed the greater of that authorized in accordance with the provisions of title 18 or \$1,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.

(4) In the case of a violation under subsection (a) of this section with respect to less than 50 kilograms of marihuana, except in the case of 100 or more marihuana plants regardless of weight, less than 10 kilograms of hashish, less than one kilogram of hashish oil, or any quantity of a controlled substance in schedule III, IV, or V, the person committing such violation shall be imprisoned not more than five years, or be fined not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$250,000 if the defendant is an individual or \$1,000,000 if the defendant is other than an individual, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall, in addition to such term of imprisonment, include (A) a term of supervised release of not less than two years if such controlled substance is in schedule I, II, III, or (B) a term of supervised release of not less than one year if such controlled substance is in schedule IV.

(c) \* \* \* [Repealed. Pub. L. 98-473, title II, Sec. 225, formerly Sec. 225(a), Oct. 12, 1984, 98 Stat. 2030, as amended by Pub. L. 99-570, title I, Sec. 1005(c), Oct. 27, 1986, 100 Stat. 3207-6]

**(d) Penalty for importation or exportation**

Any person who knowingly or intentionally—

(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this subchapter or subchapter I;

(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this subchapter or subchapter I;

(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 971 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 971(e)(2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or

(6) imports or exports a listed chemical in violation of section 957 or 951.

shall be fined in accordance with title 18, or imprisoned not more than 10 years, or both.

#### **Sec. 961. Prohibited acts B**

Any person who violates section 954 of this title or fails to notify the Attorney General of an importation or exportation under section 971 of this title shall be subject to the following penalties:

(1) Except as provided in paragraph (2), any such person shall, with respect to any such violation, be subject to a civil penalty of not more than \$25,000. Sections 842(c)(1) and (c)(3) of this title shall apply to any civil penalty assessed under this paragraph.

(2) If such a violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally and the trier of fact specifically finds that the violation was so committed, such person shall be sentenced to imprisonment for not more than one year or a fine of not more than \$25,000 or both.

#### **Sec. 962. Second or subsequent offenses**

##### **(a) Term of imprisonment and fine**

Any person convicted of any offense under this subchapter is, if the offense is a second or subsequent offense, punishable by a term of imprisonment twice that otherwise authorized, by twice the fine otherwise authorized, or by both. If the conviction is for an offense punishable under section 960(b) of this title, and if it is the offender's second or subsequent offense, the court shall impose, in addition to any term of imprisonment and fine, twice the term of supervised release otherwise authorized.



### **(b) Determination of status**

For purposes of this section, a person shall be considered convicted of a second or subsequent offense if, prior to the commission of such offense, one or more prior convictions of such person for a felony drug offense have become final.

### **(c) Procedures applicable**

Section 851 of this title shall apply with respect to any proceeding to sentence a person under this section.

### **Sec. 963. Attempt and conspiracy**

Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

### **Sec. 964. Additional penalties**

Any penalty imposed for violation of this subchapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

### **Sec. 965. Applicability of part E of subchapter I**

Part E of subchapter I of this chapter shall apply with respect to functions of the Attorney General (and of officers and employees of the Bureau of Narcotics and Dangerous Drugs) under this subchapter, to administrative and judicial proceedings under this subchapter, and to violations of this subchapter, to the same extent that such part applies to functions of the Attorney General (and such officers and employees) under subchapter I of this chapter, to such proceedings under subchapter I of this chapter, and to violations of subchapter I of this chapter. For purposes of the application of this section to section 880 or 881 of this title, any reference in such section 880 or 881 of this title to "this subchapter" shall be deemed to be a reference to this subchapter, any reference to section 823 of this title shall be deemed to be a reference to section 958 of this title, and any reference to section 822(d) of this title shall be deemed to be a reference to section 957(b)(2) of this title.

### **Sec. 966. Authority of Secretary of the Treasury**

Nothing in this chapter shall derogate from the authority of the Secretary of the Treasury under the customs and related laws.

### **Sec. 967. Smuggling of controlled substances; investigations; oaths; subpoenas; witnesses; evidence; production of records; territorial limits; fees and mileage of witnesses**

For the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of section 545 of title 18 (relating to smuggling goods into the United States) with respect to any controlled substance (as defined in section 802 of this title), the Secretary of the Treasury may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents and tangible things which con-

stitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpoena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States.

#### **Sec. 968. Service of subpoena; proof of service**

A subpoena of the Secretary of the Treasury may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

#### **Sec. 969. Contempt proceedings**

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpoena of the Secretary of the Treasury. The court may issue an order requiring the subpoenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpoenaed person is an inhabitant or wherever he may be found.

#### **Sec. 970. Criminal forfeitures**

Section 853 of this title, relating to criminal forfeitures, shall apply in every respect to a violation of this subchapter punishable by imprisonment for more than one year.

#### **Sec. 971. Notification, suspension of shipment, and penalties with respect to importation and exportation of listed chemicals**

##### **(a) Notification prior to transaction**

Each regulated person who imports or exports a listed chemical shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place.

**(b) Regular customers or suppliers**

(1) The Attorney General shall provide by regulation for circumstances in which the requirement of subsection (a) of this section does not apply to a transaction between a regulated person and a regular customer or to an importation by a regular importer. At the time of any importation or exportation constituting a transaction referred to in the preceding sentence, the regulated person shall notify the Attorney General of the transaction.

(2) The regulations under this subsection shall provide that the initial notification under subsection (a) of this section with respect to a customer of a regulated person or to an importer shall, upon the expiration of the 15-day period, qualify the customer as a regular customer or the importer as a regular importer, unless the Attorney General otherwise notifies the regulated person in writing.

**(c) Suspension of importation or exportation; disqualification of regular customers or suppliers; hearing**

(1) The Attorney General may order the suspension of any importation or exportation of a listed chemical (other than a regulated transaction to which the requirement of subsection (a) of this section does not apply by reason of subsection (b) of this section) or may disqualify any regular customer or regular importer on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance. From and after the time when the Attorney General provides written notice of the order (including a statement of the legal and factual basis for the order) to the regulated person, the regulated person may not carry out the transaction.

(2) Upon written request to the Attorney General, a regulated person to whom an order applies under paragraph (1) is entitled to an agency hearing on the record in accordance with subchapter II of chapter 5 of title 5. The hearing shall be held on an expedited basis and not later than 45 days after the request is made, except that the hearing may be held at a later time, if so requested by the regulated person.

(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this subchapter and subchapter I.

(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification

is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportation or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

## C. Maritime Drug Law Enforcement Act

46 U.S.C. APPENDIX, CHAPTER 38, SEC. 1901-1904.<sup>1</sup>

### SEC. 1901. SHORT TITLE

This chapter may be cited as the 'Maritime Drug Law Enforcement Act'.

### SEC. 1902. CONGRESSIONAL DECLARATION OF FINDINGS

The Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem and is universally condemned. Moreover, such trafficking presents a specific threat to the security and societal well-being of the United States.

### SEC. 1903. MANUFACTURE, DISTRIBUTION, OR POSSESSION WITH INTENT TO MANUFACTURE OR DISTRIBUTE CONTROLLED SUBSTANCES ON BOARD VESSELS

(a) Vessels of United States or vessels subject to jurisdiction of United States

It is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States, or who is a citizen of the United States or a resident alien of the United States on board any vessel, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(b) 'Vessel of the United States' defined

For purposes of this section, a 'vessel of the United States' means—

(1) a vessel documented under chapter 121 of title 46 or a vessel numbered as provided in chapter 123 of that title;

(2) a vessel owned in whole or part by—

(A) the United States or a territory, commonwealth, or possession of the United States;

(B) a State or political subdivision thereof;

(C) a citizen or national of the United States; or

(D) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 5 of the 1958 Convention of the High Seas and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of United States law; and

<sup>1</sup>The Maritime Drug Law Enforcement Act was originally enacted as Sec. 17 of Public Law 99-640, the Coast Guard Authorization Act of 1986.

(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(c) 'Vessel subject to the jurisdiction of the United States' and 'vessel without nationality' defined; claim of nationality or registry

(1) For purposes of this section, a 'vessel subject to the jurisdiction of the United States' includes—

(A) a vessel without nationality;

(B) a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the 1958 Convention on the High Seas;

(C) a vessel registered in a foreign nation where the flag nation has consented or waived objection to the enforcement of United States law by the United States;

(D) a vessel located within the customs waters of the United States; and

(E) a vessel located in the territorial waters of another nation, where the nation consents to the enforcement of United States law by the United States.

Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under subparagraph (C) or (E) of this paragraph may be obtained by radio, telephone, or similar oral or electronic means, and may be proved by certification of the Secretary of State or the Secretary's designee.

(2) For purposes of this section, a 'vessel without nationality' includes—

(A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed; and

(B) any vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel.

A claim of registry under subparagraph (A) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such claim of registry by the claimed flag nation may be proved by certification of the Secretary of State or the Secretary's designee.

(3) For purposes of this section, a claim of nationality or registry only includes:

(A) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the 1958 Convention on the High Seas;

(B) flying its flag nation's ensign or flag; or

(C) a verbal claim of nationality or registry by the master or person in charge of the vessel.

(d) Claim of failure to comply with international law; jurisdiction of court

A claim of failure to comply with international law in the enforcement of this chapter may be invoked solely by a foreign nation, and a failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this chapter.

(e) Exception; burden of proof

This section does not apply to a common or contract carrier or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of such person's duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

(f) Jurisdiction and venue

Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court of the District of Columbia.

(g) Penalties

(1) Any person who commits an offense defined in this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).

(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this chapter shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 962) if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

(h) Extension beyond territorial jurisdiction of United States

This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

(i) Definitions of drug abuse terms

The definitions in the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to terms used in this chapter.

(j) Attempt or conspiracy to commit offense

Any person who attempts or conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

**SEC. 1904. SEIZURE OR FORFEITURE OF PROPERTY**

Any property described in section 881(a) of title 21 that is used or intended for use to commit, or to facilitate the commission of, an offense under this chapter shall be subject to seizure and forfeit-

ure in the same manner as similar property seized or forfeited under section 881 of title 21.



## **D. Armed Forces Legislation**

### **TITLE 10, UNITED STATES CODE**

\* \* \* \* \*

#### **§ 124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency**

(a) **LEAD AGENCY.**—(1) The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2) The responsibility conferred by paragraph (1) shall be carried out in support of the counter-drug activities of Federal, State, local, and foreign law enforcement agencies.

(b) **PERFORMANCE OF DETECTION AND MONITORING FUNCTION.**—

(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of—

(A) identifying and communicating with that vessel or aircraft; and

(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.

(c) **UNITED STATES DEFINED.**—In this section, the term “United States” means the land area of the several States and any territory, commonwealth, or possession of the United States.

\* \* \* \* \*

#### **§ 371. Use of information collected during military operations**

(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other

civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

### **§ 372. Use of military equipment and facilities**

The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

### **§ 373. Training and advising civilian law enforcement officials**

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

### **§ 374. Maintenance and operation of equipment**

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to—

(A) a criminal violation of a provision of law specified in paragraph (4)(A); or

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

(B) Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(C) Aerial reconnaissance.

(D) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(E) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(F) Subject to joint approval by the Secretary of Defense and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)—

(i) the transportation of civilian law enforcement personnel; and

(ii) the operation of a base of operations for civilian law enforcement personnel.

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term 'Federal law enforcement agency' means an agency with jurisdiction to enforce any of the following:

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324–1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) or any other territory or possession of the United States.

(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(B) The term 'land area of the United States' includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in subsec. (b)(2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

### **§ 375. Restriction on direct participation by military personnel**

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that any activity (including the provision of any equipment or facility or the assignment or detail of any personnel) under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

### **§ 376. Support not to affect adversely military preparedness**

Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

### **§ 377. Reimbursement**

(a) To the extent otherwise required by section 1535 of title 31 (popularly known as the 'Economy Act') or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

(b) An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support—

(1) is provided in the normal course of military training or operations; or

(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

### **§ 378. Nonpreemption of other law**

Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

### **§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes**

(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

**§ 380. Enhancement of cooperation with civilian law enforcement officials**

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

(b) Each briefing conducted under subsection (a) shall include the following:

(1) An explanation of the procedures for civilian law enforcement officials—

(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

(B) to obtain surplus military equipment.

(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

(c) The Attorney General and the Administrator of General Services shall—

(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.

**§ 381. Procurement by State and local governments of law enforcement equipment suitable for counter-drug activities through the Department of Defense**

(a) PROCEDURES.—(1) The Secretary of Defense shall establish procedures in accordance with this subsection under which States and units of local government may purchase law enforcement equipment suitable for counter-drug activities through the Department of Defense. The procedures shall require the following:

(A) Each State desiring to participate in a procurement of equipment suitable for counter-drug activities through the Department of Defense shall submit to the Department, in such form and manner and at such times as the Secretary prescribes, the following:

(i) A request for law enforcement equipment.

(ii) Advance payment for such equipment, in an amount determined by the Secretary based on estimated or actual costs of the equipment and administrative costs incurred by the Department.

(B) A State may include in a request submitted under subparagraph (A) only the type of equipment listed in the catalog produced under subsection (c).

(C) A request for law enforcement equipment shall consist of an enumeration of the law enforcement equipment that is desired by the State and units of local government within the State. The Governor of a State may establish such procedures as the Governor considers appropriate for administering and coordinating requests for law enforcement equipment from units of local government within the State.

(D) A State requesting law enforcement equipment shall be responsible for arranging and paying for shipment of the equipment to the State and localities within the State.

(2) In establishing the procedures, the Secretary of Defense shall coordinate with the General Services Administration and other Federal agencies for purposes of avoiding duplication of effort.

(b) REIMBURSEMENT OF ADMINISTRATIVE COSTS.—In the case of any purchase made by a State or unit of local government under the procedures established under subsection (a), the Secretary of Defense shall require the State or unit of local government to reimburse the Department of Defense for the administrative costs to the Department of such purchase.

(c) GSA CATALOG.—The Administrator of General Services, in coordination with the Secretary of Defense, shall produce and maintain a catalog of law enforcement equipment suitable for counter-drug activities for purchase by States and units of local government under the procedures established by the Secretary under this section.

(d) DEFINITIONS.—In this section:

(1) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(2) The term "unit of local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior; or any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

(3) The term "law enforcement equipment suitable for counter-drug activities" has the meaning given such term in regulations prescribed by the Secretary of Defense. In prescribing the meaning of the term, the Secretary may not include any equipment that the Department of Defense does not procure for its own purposes.

## E. Department of Defense Appropriations, 1995

Partial text of Public Law 103-335, [H.R. 4650], 108 Stat. 2599, approved  
September 30, 1994

AN ACT Making appropriations for the Department of Defense for the fiscal year  
ending September 30, 1995, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled, That the following  
sums are appropriated, out of any money in the Treasury not other-  
wise appropriated, for the fiscal year ending September 30, 1995,  
for military functions administered by the Department of Defense,  
and for other purposes, namely:*

\* \* \* \* \*

### TITLE VI—OTHER DEPARTMENT OF DEFENSE PROGRAMS DEFENSE HEALTH PROGRAM

\* \* \* \* \*

#### DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE (INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; \$721,266,000, of which \$10,000,000 is hereby transferred to the "Military Construction, Navy" appropriation for construction of a Relocatable Over-the-Horizon Radar in Puerto Rico: Provided, That section 9136 of Public Law 102-396 is amended by adding the words "purchasing or" before the word "leasing" and by changing the designation "T-47" to "OT-47B": Provided further, That the funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act.

\* \* \* \* \*

### TITLE VIII—GENERAL PROVISIONS

\* \* \* \* \*

Sec. 8154. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of

the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.



## F. National Defense Authorization Act for Fiscal Year 1995

Partial text of Public Law 103—337 [S. 2182], 108 Stat. 2663, approved  
October 5, 1994

AN ACT To authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

\* \* \* \* \*

### SEC. 1011. DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES.

\* \* \* \* \*

(b) **CONDITION ON TRANSFER OF FUNDS.**—Funds appropriated for the Department of Defense may not be transferred to a National Drug control Program agency account except to the extent provided in a law that specifically states—

- (1) the amount authorized to be transferred;
- (2) the account from which such amount is authorized to be transferred; and
- (3) the account to which such amount is authorized to be transferred.

(c)<sup>1</sup> **CONDITION ON DETAILING PERSONNEL.**—Personnel of the Department of Defense may not be detailed to another department or agency in order to implement the National Drug Control Strategy unless the Secretary of Defense certifies to Congress that the detail of such personnel is in the national security interest of the United States.

(d) **RELATIONSHIP TO OTHER LAW.**—A provision of law may not be construed as modifying or superseding the provisions of subsection (b) or (c) unless that provision of law—

- (1) specifically refers to this section; and
- (2) specifically states that such provision of law modifies or supersedes the provisions of subsection (b) or (c), as the case may be.

### SEC. 1012. OFFICIAL IMMUNITY FOR AUTHORIZED EMPLOYEES AND AGENTS OF THE 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-

<sup>1</sup> Contrast with section 90201 of the Violent Crime Control and Law Enforcement Act of 1994 [section 1003(c)(2) of the National Narcotics Leadership Act of 1988], see p. 4, which requires mandatory acquiescence to all requests for temporary details made by the "Drug Czar's" office.

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, before the interdiction occurs, has determined 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 THE 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) **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.

#### **SEC. 1013. REPORT ON STATUS OF DEFENSE RANDOM DRUG TESTING PROGRAM.**

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report describing the policy and procedures under which the Armed Forces conduct random drug testing of members of the Armed Forces, the frequency of such testing, and the number of members annually required to submit to such testing. The report shall describe any changes that were made to such policy or procedures, or to the frequency of such testing, during the one-year period ending on the date of the enactment of this Act.

## G. National Defense Authorization Act for Fiscal Year 1993

Partial text of Public Law 102-484 [H.R. 5006], 106 Stat. 2315, approved  
October 23, 1992, as amended

AN ACT To authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to provide for defense conversion, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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### DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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#### TITLE X—GENERAL PROVISIONS

\* \* \* \* \*

#### Subtitle E—Counter-Drug Activities

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#### SEC. 1043. COUNTER-DRUG DETECTION AND MONITORING SYSTEMS PLAN.

(a) REQUIREMENTS OF DETECTION AND MONITORING SYSTEMS.—The Secretary of Defense shall establish requirements for counter-drug detection and monitoring systems to be used by the Department of Defense in the performance of its mission under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the transit of illegal drugs into the United States. Such requirements shall be designed—

(1) to minimize unnecessary redundancy between counter-drug detection and monitoring systems;

(2) to grant priority to assets and technologies of the Department of Defense that are already in existence or that would require little additional development to be available for use in the performance of such mission;

(3) to promote commonality and interoperability between counter-drug detection and monitoring systems in a cost-effective manner; and

(4) to maximize the potential of using counter-drug detection and monitoring systems for other defense missions whenever practicable.

(b) EVALUATION OF SYSTEMS.—The Secretary of Defense shall identify and evaluate existing and proposed counter-drug detection and monitoring systems in light of the requirements established

under subsection (a). In carrying out such evaluation, the Secretary shall—

(1) assess the capabilities, strengths, and weaknesses of counter-drug detection and monitoring systems; and

(2) determine the optimal and most cost-effective combination of use of counter-drug detection and monitoring systems to carry out activities relating to the reconnaissance, detection, and monitoring of drug traffic.

(c) **SYSTEMS PLAN.**—Based on the results of the evaluation under subsection (b), the Secretary of Defense shall prepare a plan for the development, acquisition, and use of improved counter-drug detection and monitoring systems by the Armed Forces. In developing the plan, the Secretary shall also make every effort to determine which counter-drug detection and monitoring systems should be eliminated from the counter-drug program based on the results of such evaluation. The plan shall include an estimate by the Secretary of the full cost to implement the plan, including the cost to develop, procure, operate, and maintain equipment used in counter-drug detection and monitoring activities performed under the plan and training and personnel costs associated with such activities.

(d) **REPORT.**—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the requirements established under subsection (a) and the results of the evaluation conducted under subsection (b). The report shall include the plan prepared under subsection (c).

(e) **LIMITATION ON OBLIGATION OF FUNDS.**—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act may be obligated or expended for the procurement or upgrading of a counter-drug detection and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until after the date on which the Secretary of Defense submits to Congress the report required under subsection (d).

(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for—

(A) any procurement, upgrading, research and development, or lease of a counter-drug detection and monitoring system that is necessary to carry out the evaluation required under subsection (b); or

(B) the operation and maintenance of counter-drug detection and monitoring systems used by the Department of Defense as of the date of the enactment of this Act.

(f) **DEFINITION.**—For purposes of this section, the term “counter-drug detection and monitoring systems” means land-, air-, and sea-based detection and monitoring systems suitable for use by the Department of Defense in the performance of its mission—

(1) under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the aerial and maritime transit of illegal drugs into the United States; and

(2) to provide support to law enforcement agencies in the detection, monitoring, and communication of the movement of

traffic at, near, and outside the geographic boundaries of the  
United States.

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## H. National Defense Authorization Act for Fiscal Year 1991

Partial text of Public Law 101-510 [H.R. 4739], 104 Stat. 1465, approved  
November 5, 1990, as amended

AN ACT To authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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### DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

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### TITLE X—DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

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#### SEC. 1004.<sup>1</sup> ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

(a) SUPPORT TO OTHER AGENCIES.—During fiscal years 1991 through 1999, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested—

(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

(2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or

(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

(b) TYPES OF SUPPORT.—The purposes for which the Secretary may provide support under subsection (a) are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

<sup>1</sup> 10 U.S.C. 374 note.

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in subparagraph (A) for the purpose of—

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

(4) The establishment (including unspecified minor construction) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities within or outside the United States.

(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6) The detection, monitoring, and communication of the movement of—

(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(9) The provision of linguist and intelligence analysis services.

(10) Aerial and ground reconnaissance.

(c) **LIMITATION ON COUNTER-DRUG REQUIREMENTS.**—The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.

(d) **CONTRACT AUTHORITY.**—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

(e) **LIMITED WAIVER OF PROHIBITION.**—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(f) **CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.**—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(g) **RELATIONSHIP TO OTHER LAWS.**—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (e), section 376 of title 10, United States Code.

#### **SEC. 1005. TRANSFER OF EXCESS DEFENSE ARTICLES**

Pursuant to section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 372 note) and section 372 of title 10, United States Code, the Secretary of Defense shall review the availability of equipment resulting from the withdrawal of United States forces from Europe and Asia for the purpose of identifying excess equipment that may be suitable for drug enforcement activities for transfer to appropriate Federal, State, or local civilian law enforcement authorities.

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#### **SEC. 1010. CREATION OF A MULTILATERAL COUNTER-DRUG STRIKE FORCE**

(a) **FINDINGS.**—Congress makes the following findings:

(1) Congress has in the past sought approval for a multilateral strike force dedicated to the war on drugs.

(2) The proposal by the Prime Minister of Jamaica for the creation of a multilateral, international counter-drug strike force is the first operative proposal for the use of a multilateral force against the drug cartels in Latin America by a government leader in the Western Hemisphere and should be given serious consideration.

(b) **SENSE OF THE CONGRESS.**—It is the sense of Congress that—

(1) the Prime Minister of Jamaica is to be commended for his proposal;

(2) the President should call for international negotiations for the purpose of discussing the establishment of an international strike force to counter international drug traffickers; and

(3) the United States should work through the United Nations and other multilateral organizations to determine the feasibility of establishing and using a force and should assist



in the establishment of such a force if the President determines the proposal to be feasible.

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## I. International Narcotics Control Act of 1989

Partial text of Public Law 101-231 [H.R. 3611], 103 Stat. 1954, approved  
December 13, 1989, as amended.

AN ACT To combat international narcotics production and trafficking.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

\* \* \* \* \*

### SEC. 11. MULTILATERAL ANTINARCOTICS STRIKE FORCE.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has, in the past, indicated its support for a multilateral, regional approach to narcotics control efforts;

(2) a proposal to create a multilateral, international antinarcotics force for the Western Hemisphere, is a plan worthy of praise and strong United States support;

(3) the development of a greater capability to assist the governments of Latin America and the Caribbean, including the Caribbean Basin nations, is an essential component of efforts to interdict the flow of narcotics to the United States; and

(4) regional leadership in the promotion of a multilateral, paramilitary force to combat the drug cartels is welcomed and encouraged.

(b) SENSE OF CONGRESS.—It is therefore the sense of the Congress that—

(1) the proposal for the promotion of a regional multilateral antinarcotics force for the Western Hemisphere should be endorsed; and

(2) the United States should work through the United Nations, the Organization of American States, and other multilateral organizations to determine the feasibility of such a force and should assist in the establishment of this force if it is found to be feasible.

### SEC. 12. WEAPONS TRANSFERS TO INTERNATIONAL NARCOTICS TRAFFICKERS.

HALTING WEAPONS TRANSFERS TO NARCOTICS TRAFFICKERS.—The Congress urges the President to seek agreement by the relevant foreign countries, especially the member countries of the North Atlantic Treaty Organization and the member countries of the Warsaw Pact, to join with the United State in taking the necessary steps to halt transfers of weapons to narcotics traffickers in Latin America.

(b) COORDINATION OF UNITED STATES EFFORTS TO TRACK ILLEGAL ARMS TRANSFERS.—The Congress urges the President to improve the coordination of United States Government efforts —

(1) to track the flow of weapons illegally from the United States and other countries to international narcotics traffickers, and

(2) to prevent such illegal shipments from the United States.

(c) INTERPOL.—The Congress calls upon the President to direct the United States representative to INTERPOL to urge that organization to study the feasibility of creating an international database on the flow of those types of weapons that are being acquired illegally by international narcotics traffickers.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the President shall report to the Congress on the steps taken in accordance with this section.

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## **J. National Defense Authorization Act for Fiscal Years 1990 and 1991**

**Partial text of Public Law 101-189 [H.R. 2461], 103 Stat. 1352, approved November 29, 1989, as amended**

AN ACT To authorize appropriations for fiscal years 1990 and 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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### **DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS**

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### **TITLE XII—MILITARY DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES**

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#### **SEC. 1204. COMMUNICATIONS NETWORK**

(a) **INTEGRATION OF NETWORK.**—(1) The Secretary of Defense shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

(2) The Secretary shall carry out this subsection in consultation with the Director of National Drug Control Policy.

(b) **CONFORMING REPEAL.**—Section 1103 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2042), is repealed.

#### **SEC. 1205. RESEARCH AND DEVELOPMENT**

The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies designed to improve—

(1) the ability of the Department to carry out the detection and monitoring function of the Department under section 124 of title 10, United States Code, as added by section 1202; and

(2) the ability to detect illicit drugs and other dangerous and illegal substances that are concealed in containers.

#### **SEC. 1206. TRAINING EXERCISES IN DRUG-INTERDICTION AREAS**

(a) **EXERCISES REQUIRED.**—The Secretary of Defense shall direct that the armed forces, to the maximum extent practicable, shall

conduct military training exercises (including training exercises conducted by the reserve components) in drug-interdiction areas.

(b) **REPORT.**—(1) Not later than February 1 of 1991 and 1992, the Secretary shall submit to Congress a report on the implementation of subsection (a) during the preceding fiscal year.

(2) The report shall include—

(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the national counter-drug effort; and

(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

(c) **DRUG-INTERDICTION AREAS DEFINED.**—For purposes of this section, the term “drug-interdiction areas” includes land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred.

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#### **SEC. 1208. TRANSFER OF EXCESS PERSONAL PROPERTY**

(a) **TRANSFER AUTHORIZED.**—(1) Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense may transfer to Federal and State agencies personal property of the Department of Defense, including small arms and ammunition, that the Secretary determines is—

(A) suitable for use by such agencies in counter-drug activities; and

(B) excess to the needs of the Department of Defense.

(2) Personal property transferred under this section may be transferred without cost to the recipient agency.

(3) The Secretary shall carry out this section in consultation with the Attorney General and the Director of National Drug Control Policy.

(b) **CONDITIONS FOR TRANSFER.**—The Secretary may transfer personal property under this section only if—

(1) the property is drawn from existing stocks of the Department of Defense; and

(2) the transfer is made without the expenditure of any funds available to the Department of Defense for the procurement of defense equipment.

(c) **APPLICATION.**—The authority of the Secretary to transfer personal property under this section shall expire on September 30, 1997.

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## K. Immigration and Nationality Act

Partial text of Public Law 82-414 [8 U.S.C. 1101 et seq.], 66 Stat. 163,  
approved June 27, 1952, as amended.

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This chapter contains the following sections from the Immigration and Nationality Act: sections 101, 106, 208, 212, 241, 242, 242A, 242B, 243, 244, 264, 276, 277, and 287.

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### TITLE I—GENERAL

#### DEFINITIONS

Section 101. (a) As used in this Act—

(1) The term “administrator” means the official designated by the Secretary of State pursuant to section 104(b) of this Act.

(2) The term “advocates” includes, but is not limited to, advises, recommends, furthers by overt act, and admits belief in.

(3) The term “alien” means any person not a citizen or national of the United States.

(4) The term “application for admission” has reference to the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa.

(5) The term “Attorney General” means the Attorney General of the United States.

(6) The term “border crossing identification card” means a document of identity bearing that designation issued to an alien who is lawfully admitted for permanent residence, or to an alien who is a resident in foreign contiguous territory, by a consular officer or an immigration officer for the purpose of crossing over the borders between the United States and foreign contiguous territory in accordance with such conditions for its issuance and use as may be prescribed by regulations.

(7) The term “clerk of court” means a clerk of a naturalization court.

(8) The terms “Commissioner” and “Deputy Commissioner” mean the Commissioner of Immigration and Naturalization and a Deputy Commissioner of Immigration and Naturalization, respectively.

(9) The term “consular officer” means any consular, diplomatic, or other officer of the United States designated under regulations prescribed under authority contained in this Act, for the purpose of issuing immigrant or nonimmigrant visas.

(10) The term “crewman” means a person serving in any capacity on board a vessel or aircraft.

(11) The term “diplomatic visa” means a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regulations as the Secretary of State may prescribe.

(12) The term "doctrine" includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(13) The term "entry" means any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that his departure to a foreign port or place or to an outlying possession was not intended or reasonably to be expected by him or his presence in a foreign port or place or in an outlying possession was not voluntary: Provided, That no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception.

(14) The term "foreign state" includes outlying possessions of a foreign state, but self-governing dominions and territories under mandate or trusteeship shall be regarded as separate foreign states.

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

(A)(i) an ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the alien's immediate family;

(ii) upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

(iii) upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

(B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

(C) an alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758);

(D)(i) an alien crewman serving in good faith as such in a capacity required for normal operation and service on board a vessel, as defined in section 258(a) (other than a fishing vessel having its home port or an operating base in the United States), or aircraft, who intends to land temporarily and solely in pursuit of his calling as a crewman and to depart from the

United States with the vessel or aircraft on which he arrived or some other vessel or aircraft;

(ii) an alien crewman serving in good faith as such in any capacity required for normal operations and service aboard a fishing vessel having its home port or an operating base in the United States who intends to land temporarily in Guam and solely in pursuit of his calling as a crewman and to depart from Guam with the vessel on which he arrived;

(E) an alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national, and the spouse and children of any such alien if accompanying or following to join him: (i) solely to carry on substantial trade, including trade in services or trade in technology, principally between the United States and the foreign state of which he is a national; or (ii) solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital;

(F)(i) an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States, particularly designated by him and approved by the Attorney General after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;

(G)(i) a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669), accredited resident members of the staff of such representatives, and members of his or their immediate family;

(ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;

(iv) officers, or employees of such international organizations, and the members of their immediate families;



(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;

(H) an alien (i) (a) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for each facility (which facility shall include the petitioner and each worksite, other than a private household worksite, if the worksite is not the alien's employer or controlled by the employer) for which the alien will perform the services, or (b) subject to section 212(j)(2), who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) or as a fashion model, who meets the requirements for the occupation specified in section 214(i)(2) or, in the case of a fashion model, is of distinguished merit and ability, and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with the Secretary an application under section 212(n)(1); or (ii)(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), of a temporary or seasonal nature, or (b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession; or (iii) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training, in a training program that is not designed primarily to provide productive employment; and the alien spouse and minor children of any such alien specified in this paragraph if accompanying him or following to join him;

(I) upon a basis of reciprocity, an alien who is a bona fide representative of foreign press, radio, film, or other foreign information media, who seeks to enter the United States solely to engage in such vocation, and the spouse and children of such a representative if accompanying or following to join him;

(J) an alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student,

scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, who is coming temporarily to the United States as a participant in a program designated by the Director of the United States Information Agency, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying him or following to join him;

(K) an alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry, and the minor children of such fiancée or fiancé accompanying him or following to join him;

(L) an alien who, within 3 years preceding the time of his application for admission into the United States, has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States temporarily in order to continue to render his services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge, and the alien spouse and minor children of any such alien if accompanying him or following to join him;

(M)(i) an alien having a residence in a foreign country which he has no intention of abandoning who seeks to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an established vocational or other recognized nonacademic institution (other than in a language training program) in the United States particularly designated by him and approved by the Attorney General, after consultation with the Secretary of Education, which institution shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant nonacademic student and if any such institution fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;

(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or (ii) a child of such parent or of an alien accorded the status of a special immigrant under clause (ii), (iii), or (iv) of paragraph (27)(I);

(O) an alien who—

(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through ex-

tensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability; or

(ii)(I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,

(II) is an integral part of such actual performance,

(III)(a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or (b) in the case of a motion picture or television production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing longstanding working relationship or, with respect to the specific production, because significant production (including pre- and post-production work) will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

(IV) has a foreign residence which the alien has no intention of abandoning; or

(iii) is the alien spouse or child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien;

(P) an alien having a foreign residence which the alien has no intention of abandoning who—

(i) (a) is described in section 214(c)(4)(A) (relating to athletes), or (b) is described in section 214(c)(4)(B) (relating to entertainment groups);

(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization or organizations in one or more foreign states and which provides for the temporary exchange of artists and entertainers;

(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely to perform, teach, or coach as such an artist or entertainer or with such a group under a commercial or non-commercial program that is culturally unique; or

(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien;

(Q) an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program

approved by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers;

(R) an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii); or

(S) subject to section 214(j), an alien—

(i) who the Attorney General determines—

(I) is in possession of critical reliable information concerning a criminal organization or enterprise;

(II) is willing to supply or has supplied such information to Federal or State court; and

(III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise; or

(ii) who the Secretary of State and the Attorney General jointly determines—

(I) is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation;

(II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;

(III) will be or has been placed in danger as a result of providing such information; and

(IV) is eligible to receive a reward under section 36(a) of the State Department Basic Authorities Act of 1956,

and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien.

(16) The term "immigrant visa" means an immigrant visa required by this Act and properly issued by a consular officer at his office outside of the United States to an eligible immigrant under the provisions of this Act.

(17) The term "immigration laws" includes this Act and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

(18) The term "immigration officer" means any employee or class of employees of the Service or of the United States designated by the Attorney General, individually or by regulation, to perform the

functions of an immigration officer specified by this Act or any section thereof.

(19) The term "ineligible to citizenship," when used in reference to any individual, means, notwithstanding the provisions of any treaty relating to military service, an individual who is, or was at any time, permanently debarred from becoming a citizen of the United States under section 3(a) of the Selective Training and Service Act of 1940, as amended (54 Stat. 885; 55 Stat. 844), or under section 4(a) of the Selective Service Act of 1948, as amended (62 Stat. 605; 65 Stat. 76), or under any section of this Act, or any other Act, or under any law amendatory of, supplementary to, or in substitution for, any of such sections or Acts.

(20) The term "lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

(21) The term "national" means a person owing permanent allegiance to a state.

(22) The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(23) The term "naturalization" means the conferring of nationality of a state upon a person after birth, by any means whatsoever.

[(24) Repealed.]

(25) The term "noncombatant service" shall not include service in which the individual is not subject to military discipline, court martial, or does not wear the uniform of any branch of the armed forces.

(26) The term "nonimmigrant visa" means a visa properly issued to an alien as an eligible nonimmigrant by a competent officer as provided in this Act.

(27) The term "special immigrant" means—

(A) an immigrant, lawfully admitted for permanent residence, who is returning from a temporary visit abroad;

(B) an immigrant who was a citizen of the United States and may, under section 324(a) or 327 of title III, apply for reacquisition of citizenship;

(C) an immigrant, and the immigrant's spouse and children if accompanying or following to join the immigrant, who—

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

(ii) seeks to enter the United States—

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

(II) before October 1, 1994, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before October 1, 1997, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is ex-

empt from taxation as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);

(D) an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, or of the American institute in Taiwan, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: Provided, That the principal officer of a Foreign Service establishment or, in the case of the American Institute in Taiwan, the Director thereof, in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status;

(E) an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section 3 (a)(1) of the Panama Canal Act of 1979) enters into force, who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty, and who has performed faithful service as such an employee for one year or more;

(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force, has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or (ii) who on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment;

(G) an immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977, who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment;

(H) an immigrant, and his accompanying spouse and children, who—

(i) has graduated from a medical school or has qualified to practice medicine in a foreign state,

(ii) was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date,

(iii) entered the United States as a nonimmigrant under subsection (a)(15)(H) or (a)(15)(J) before January 10, 1978, and

(iv) has been continuously present in the United States in the practice or study of medicine since the date of such entry;

(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for a visa or adjustment of status under this subparagraph no later than his twenty-fifth birthday or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988, whichever is later;

(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) files a petition for status under this subparagraph no later than six months after the date of such death or six months after the date of such death or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988, whichever is later;

(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) files a petition for status under this subparagraph no later than six months after the date of such retirement or six months after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994, whichever is later; or

(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family;

(J) an immigrant (i) who has been declared dependent on a juvenile court located in the United States or whom such a

court has legally committed to, or placed under the custody of, an agency or department of a State and who has been deemed eligible by that court for long-term foster care, and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or

(K) an immigrant who has served honorably on active duty in the Armed Forces of the United States after October 15, 1978, and after original lawful enlistment outside the United States (under a treaty or agreement in effect on the date of the enactment of this subparagraph) for a period or periods aggregating—

(i) 12 years and who, if separated from such service, was never separated except under honorable conditions, or

(ii) 6 years, in the case of an immigrant who is on active duty at the time of seeking special immigrant status under this subparagraph and who has reenlisted to incur a total active duty service obligation of at least 12 years,

and the spouse or child of any such immigrant if accompanying or following to join the immigrant, but only if the executive department under which the immigrant serves or served recommends the granting of special immigrant status to the immigrant.

(28) The term "organization" means, but is not limited to, an organization, corporation, company, partnership, association, trust, foundation or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together with joint action on any subject or subjects.

(29) The term "outlying possessions of the United States" means American Samoa and Swains Island.

(30) The term "passport" means any travel document issued by competent authority showing the bearer's origin, identity, and nationality if any, which is valid for the entry of the bearer into a foreign country.

(31) The term "permanent" means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with law.

(32) The term "profession" shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries.

(33) The term "residence" means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent.

(34) The term "Service" means the Immigration and Naturalization Service of the Department of Justice.

(35) The term "spouse", "wife", or "husband" does not include a spouse, wife, or husband by reason of any marriage ceremony



where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated.

(36) The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

(37) The term "totalitarian party" means an organization which advocates the establishment in the United States of a totalitarian dictatorship or totalitarianism. The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

(38) The term "United States", except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States.

(39) The term "unmarried", when used in reference to any individual as of any time, means an individual who at such time is not married, whether or not previously married.

(40) The term "world communism" means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist political movement.

(41) The term "graduates of a medical school" means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state, other than such aliens who are of national or international renown in the field of medicine.

(42) The term "refugee" means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) in such circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term "refugee" does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

(43) The term "aggravated felony" means murder, any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including any drug trafficking crime as defined in section 924(c)(2) of title 18, United States Code, or any

illicit trafficking in any firearms or destructive devices as defined in section 921 of such title, any offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments), or any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years, or any attempt or conspiracy to commit any such act. Such term applies to offenses described in the previous sentence whether in violation of Federal or State law and also applies to offenses described in the previous sentence in violation of foreign law for which the term of imprisonment was completed within the previous 15 years.

(44)(A) The term "managerial capacity" means an assignment within an organization in which the employee primarily—

(i) manages the organization, or a department, subdivision, function, or component of the organization;

(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

(B) The term "executive capacity" means an assignment within an organization in which the employee primarily—

(i) directs the management of the organization or a major component or function of the organization;

(ii) establishes the goals and policies of the organization, component, or function;

(iii) exercises wide latitude in discretionary decision-making; and

(iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

(C) If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the Attorney General shall take into account the reasonable needs of the organization, component, or function in light of the overall purpose and stage of development of the organization, component, or function. An individual shall not be considered to be acting in a managerial or executive capacity (as previously defined) merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.

(45) The term "substantial" means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade

or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.

(46) The term "extraordinary ability" means, for purposes of section 101(a)(15)(O)(i), in the case of the arts, distinction.

(b) As used in titles I and II—

(1) The term "child" means an unmarried person under twenty-one years of age who is—

(A) a legitimate child;

(B) a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred;

(C) a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in or outside the United States, if such legitimation takes place before the child reaches the age of eighteen years and the child is in the legal custody of the legitimating parent or parents at the time of such legitimation;

(D) an illegitimate child, by, through whom, or on whose behalf a status, privilege, or benefit is sought by virtue of the relationship of the child to its natural mother or to its natural father if the father has or had a bona fide parent-child relationship with the person;

(E) a child adopted while under the age of sixteen years if the child has been in the legal custody of, and has resided with, the adopting parent or parents for at least two years: Provided, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or

(F) a child, under the age of sixteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 201(b), who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption; who has been adopted abroad by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who personally saw and observed the child prior to or during the adoption proceedings; or who is coming to the United States for adoption by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who have or has complied with the preadoption requirements, if any, of the child's proposed residence: Provided, That the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States: Provided further, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

(2) The term "parent", "father", or "mother" means a parent, father, or mother only where the relationship exists by reason of any of the circumstances set forth in (1) above, except that, for purposes of paragraph (1)(F) (other than the second proviso therein) in the case of an illegitimate child described in paragraph (1)(D) (and

not described in paragraph (1)(C)), the term "parent" does not include the natural father or the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption.

(3) The term "person" means an individual or an organization.

(4) The term "special inquiry officer" means any immigration officer who the Attorney General deems specially qualified to conduct specified classes of proceedings, in whole or in part, required by this Act to be conducted by or before a special inquiry officer and who is designated and selected by the Attorney General, individually or by regulation, to conduct such proceedings. Such special inquiry officer shall be subject to such supervision and shall perform such duties, not inconsistent with this Act, as the Attorney General shall prescribe.

(5) The term "adjacent islands" includes Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territory or possessions in or bordering on the Caribbean Sea.

(c) As used in title III—

(1) The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 320, 321, and 322 of title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of sixteen years, and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

(2) The terms "parent", "father", and "mother" include in the case of a posthumous child a deceased parent, father, and mother.

[(d) stricken]

(e) For the purpose of this Act—

(1) The giving, loaning, or promising of support or of money or any other thing of value to be used for advocating any doctrine shall constitute the advocating of such doctrine; but nothing in this paragraph shall be construed as an exclusive definition of advocating.

(2) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

(3) Advocating the economic, international, and governmental doctrines of world communism means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

(f) For the purposes of this Act—

No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established, is, or was—

(1) a habitual drunkard;

[(2) stricken]

(3) a member of one or more of the classes of persons, whether excludable or not, described in paragraphs (2)(D), (6)(E), and (9)(A) of section 212(a) of this Act; or subparagraphs (A) and (B) of section 212(a)(2) and subparagraph (C) thereof of such section (except as such paragraph relates to a single offense of simple possession of 30 grams or less of marihuana); if the offense described therein, for which such person was convicted or of which he admits the commission, was committed during such period;

(4) one whose income is derived principally from illegal gambling activities;

(5) one who has been convicted of two or more gambling offenses committed during such period;

(6) one who has given false testimony for the purpose of obtaining any benefits under this Act;

(7) one who during such period has been confined, as a result of conviction, to a penal institution for an aggregate period of one hundred and eighty days or more, regardless of whether the offense, or offenses, for which he has been confined were committed within or without such period;

(8) one who at any time has been convicted of an aggravated felony (as defined in subsection (a)(43)).

The fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character.

(g) For the purposes of this Act any alien ordered deported (whether before or after the enactment of this Act) who has left the United States, shall be considered to have been deported in pursuance of law, irrespective of the source from which the expenses of his transportation were defrayed or of the place to which he departed.

(h) For purposes of section 212(a)(2)(E), the term "serious criminal offense" means—

(1) any felony;

(2) any crime of violence, as defined in section 16 of title 18 of the United States Code; or

(3) any crime of reckless driving or of driving while intoxicated or under the influence of alcohol or of prohibited substances if such crime involves personal injury to another.

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#### JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION

Sec. 106. (a) The procedure prescribed by, and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of deportation heretofore or hereafter made against aliens within the United States pursuant to administrative proceedings under section 242(b) or pursuant to section 242A of this Act or comparable provisions of any prior Act, except that—

(1) a petition for review may be filed not later than 90 days after the date of the issuance of the final deportation order, or, in the case of an alien convicted of an aggravated felony including an

alien described in section 242A, not later than 30 days after the issuance of such order;

(2) the venue of any petition for review under this section shall be in the judicial circuit in which the administrative proceedings before a special inquiry officer were conducted in whole or in part, or in the judicial circuit wherein is the residence, as defined in this Act, of the petitioner, but not in more than one circuit;

(3) the action shall be brought against the Immigration and Naturalization Service, as respondent. Service of the petition to review shall be made upon the Attorney General of the United States and upon the official of the Immigration and Naturalization Service in charge of the Service district in which the office of the clerk of the court is located. The service of the petition for review upon such official of the Service shall stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs or unless the alien is convicted of an aggravated felony including an alien described in section 242A, in which case the Service shall not stay the deportation of the alien pending determination of the petition of the court unless the court otherwise directs;

(4) except as provided in clause (B) of paragraph (5) of this subsection, the petition shall be determined solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive;

(5) whenever any petitioner, who seeks review of an order under this section, claims to be a national of the United States and makes a showing that his claim is not frivolous, the court shall (A) pass upon the issues presented when it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; or (B) where a genuine issue of material fact as to the petitioner's nationality is presented, transfer the proceedings to a United States district court for the district where the petitioner has his residence for hearing de novo of the nationality claim and determination as if such proceedings were originally initiated in the district court under the provisions of section 2201 of title 28, United States Code. Any such petitioner shall not be entitled to have such issue determined under section 360(a) of this Act or otherwise;

(6) whenever a petitioner seeks review of an order under this section, any review sought with respect to a motion to reopen or reconsider such an order shall be consolidated with the review of the order;

(7) if the validity of a deportation order has not been judicially determined, its validity may be challenged in a criminal proceeding against the alien for violation of subsection (d) or (e) of section 242 of this Act only by separate motion for judicial review before trial. Such motion shall be determined by the court without a jury and before the trial of the general issue. Whenever a claim to United States nationality is made in such motion, and in the opinion of the court, a genuine issue of material fact as to the alien's nationality is presented, the court shall accord him a hearing de novo on the nationality claim and determine that issue as if proceedings had

been initiated under the provisions of section 2201 of title 28, United States Code. Any such alien shall not be entitled to have such issue determined under section 360(a) of this Act or otherwise. If no such hearing de novo as to nationality is conducted, the determination shall be made solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial and probative evidence on the record considered as a whole, shall be conclusive. If the deportation order is held invalid, the court shall dismiss the indictment and the United States shall have the right to appeal to the court of appeals within thirty days. The procedure on such appeals shall be as provided in the Federal rules of criminal procedure. No petition for review under this section may be filed by any alien during the pendency of a criminal proceeding against such alien for violation of subsection (d) or (e) of section 242 of this Act;

(8) nothing in this section shall be construed to require the Attorney General to defer deportation of an alien after the issuance of a deportation order because of the right of judicial review of the order granted by this section, or to relieve any alien from compliance with subsections (d) and (e) of section 242 of this Act. Nothing contained in this section shall be construed to preclude the Attorney General from detaining or continuing to detain an alien or from taking him into custody pursuant to subsection (c) of section 242 of this Act at any time after the issuance of a deportation order;

(9) it shall not be necessary to print the record or any part thereof, or the briefs, and the court shall review the proceedings on a typewritten record and on typewritten briefs; and

(10) any alien held in custody pursuant to an order of deportation may obtain judicial review thereof by habeas corpus proceedings.

(b) Notwithstanding the provisions of any other law, any alien against whom a final order of exclusion has been made heretofore or hereafter under the provisions of section 236 of this Act or comparable provisions of any prior Act may obtain judicial review of such order by habeas corpus proceedings and not otherwise.

(c) An order of deportation or of exclusion shall not be reviewed by any court if the alien has not exhausted the administrative remedies available to him as of right under the immigration laws and regulations or if he has departed from the United States after the issuance of the order. Every petition for review or for habeas corpus shall state whether the validity of the order has been upheld in any prior judicial proceeding, and, if so, the nature and date thereof, and the court in which such proceeding took place. No petition for review or for habeas corpus shall be entertained if the validity of the order has been previously determined in any civil or criminal proceeding, unless the petition presents grounds which the court finds could not have been presented in such prior proceeding, or the court finds that the remedy provided by such prior proceeding was inadequate or ineffective to test the validity of the order.

(d)(1) A petition for review or for habeas corpus on behalf of an alien against whom a final order of deportation has been issued pursuant to section 242A(b)) may challenge only—

(A) whether the alien is in fact the alien described in the order;

(B) whether the alien is in fact an alien described in section 242A(b)(2);

(C) whether the alien has been convicted of an aggravated felony and such conviction has become final; and

(D) whether the alien was afforded the procedures required by section 242A(b)(5).

(2) No court shall have jurisdiction to review any issue other than an issue described in paragraph (1).

#### ASYLUM PROCEDURE

\* \* \* \* \*

Sec. 208. (a) The Attorney General shall establish a procedure for an alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for asylum, and the alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

(b) Asylum granted under subsection (a) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided.

(c) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (a) may, if not otherwise eligible for asylum under such subsection, be granted the same status as the alien if accompanying, or following to join, such alien.

(d) An alien who has been convicted of an aggravated felony, notwithstanding subsection (a), may not apply for or be granted asylum.

(e) An applicant for asylum is not entitled to employment authorization except as may be provided by regulation in the discretion of the Attorney General.

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#### GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION; WAIVERS OF INADMISSIBILITY

Sec. 212. (a) Classes of Excludable Aliens.—Except as otherwise provided in this Act, the following describes classes of excludable aliens who are ineligible to receive visas and who shall be excluded from admission into the United States:

(1) Health-related grounds.—

(A) In general.—Any alien—

(i) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance, which shall include infection with the etiologic agent for acquired immune deficiency syndrome,



(ii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General)—

(I) to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others, or

(II) to have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior, or

(iii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict,  
is excludable.

(B) Waiver authorized.—For provision authorizing waiver of certain clauses of subparagraph (A), see subsection (g).

(2) Criminal and related grounds.—

(A) Conviction of certain crimes.—

(i) In general.—Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of—

(I) a crime involving moral turpitude (other than a purely political offense), or

(II) a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),

is excludable.

(ii) Exception.—Clause (i)(I) shall not apply to an alien who committed only one crime if—

(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States, or

(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

(B) Multiple criminal convictions.—Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether

the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were 5 years or more is excludable.

(C) Controlled substance traffickers.—Any alien who the consular or immigration officer knows or has reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance, is excludable.

(D) Prostitution and commercialized vice.—Any alien who—

(i) is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, entry, or adjustment of status,

(ii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, entry, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10-year period) received, in whole or in part, the proceeds of prostitution, or

(iii) is coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution,

is excludable.

(E) Certain aliens involved in serious criminal activity who have asserted immunity from prosecution.—Any alien—

(i) who has committed in the United States at any time a serious criminal offense (as defined in section 101(h)),

(ii) for whom immunity from criminal jurisdiction was exercised with respect to that offense,

(iii) who as a consequence of the offense and exercise of immunity has departed from the United States, and

(iv) who has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense,

is excludable.

(F) Waiver authorized.—For provision authorizing waiver of certain subparagraphs of this paragraph, see subsection (h).

(3) Security and related grounds.—

(A) In general.—Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

(i) any activity (I) to violate any law of the United States relating to espionage or sabotage or (II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

(ii) any other unlawful activity, or

(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is excludable.

## (B) Terrorist activities.—

## (i) In general.—Any alien who—

(I) has engaged in a terrorist activity, or

(II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is likely to engage after entry in any terrorist activity (as defined in clause (iii)),

is excludable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.

(ii) Terrorist activity defined.—As used in this Act, the term “terrorist activity” means any activity which is unlawful under the laws of the place where it is committed (or which, if committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

(IV) An assassination.

(V) The use of any—

(a) biological agent, chemical agent, or nuclear weapon or device, or

(b) explosive or firearm (other than for mere personal monetary gain),

with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

(VI) A threat, attempt, or conspiracy to do any of the foregoing.

(iii) Engage in terrorist activity defined.—As used in this Act, the term “engage in terrorist activity” means to commit, in an individual capacity or as a member of an organization, an act of terrorist activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

(I) The preparation or planning of a terrorist activity.

(II) The gathering of information on potential targets for terrorist activity.

(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false identification, weapons, explosives,

or training, to any individual the actor knows or has reason to believe has committed or plans to commit a terrorist activity.

(IV) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization.

(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.

(C) Foreign policy.—

(i) In general.—An alien whose entry or proposed activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is excludable.

(ii) Exception for officials.—An alien who is an official of a foreign government or a purported government, or who is a candidate for election to a foreign government office during the period immediately preceding the election for that office, shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) solely because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States.

(iii) Exception for other aliens.—An alien, not described in clause (ii), shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States, unless the Secretary of State personally determines that the alien's admission would compromise a compelling United States foreign policy interest.

(iv) Notification of determinations.—If a determination is made under clause (iii) with respect to an alien, the Secretary of State must notify on a timely basis the chairmen of the Committees on the Judiciary and Foreign Affairs of the House of Representatives and of the Committees on the Judiciary and Foreign Relations of the Senate of the identity of the alien and the reasons for the determination.

(D) Immigrant membership in totalitarian party.—

(i) In general.—Any immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party (or subdivision or affiliate thereof), domestic or foreign, is excludable.

(ii) Exception for involuntary membership.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that the membership or affiliation is or was involuntary, or is or was solely when under 16 years of age, by operation of law, or for purposes of obtaining employment, food rations,

or other essentials of living and whether necessary for such purposes.

(iii) Exception for past membership.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that—

(I) the membership or affiliation terminated at least—

(a) 2 years before the date of such application, or

(b) 5 years before the date of such application, in the case of an alien whose membership or affiliation was with the party controlling the government of a foreign state that is a totalitarian dictatorship as of such date, and

(II) the alien is not a threat to the security of the United States.

(iv) Exception for close family members.—The Attorney General may, in the Attorney General's discretion, waive the application of clause (i) in the case of an immigrant who is the parent, spouse, son, daughter, brother, or sister of a citizen of the United States or a spouse, son, or daughter of an alien lawfully admitted for permanent residence for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest if the immigrant is not a threat to the security of the United States.

(E) Participants in nazi persecutions or genocide.—

(i) Participation in nazi persecutions.—Any alien who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(I) the Nazi government of Germany,

(II) any government in any area occupied by the military forces of the Nazi government of Germany,

(III) any government established with the assistance or cooperation of the Nazi government of Germany, or

(IV) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion is excludable.

(ii) Participation in genocide.—Any alien who has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is excludable.

(4) Public charge.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

(5) Labor certification and qualifications for certain immigrants.—

(A) Labor certification.—

(i) In general.—Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is excludable, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that—

(I) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and

(II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(ii) Certain aliens subject to special rule.—For purposes of clause (i)(I), an alien described in this clause is an alien who—

(I) is a member of the teaching profession, or

(II) has exceptional ability in the sciences or the arts.

(B) Unqualified physicians.—An alien who is a graduate of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States) and who is coming to the United States principally to perform services as a member of the medical profession is excludable, unless the alien (i) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and (ii) is competent in oral and written English. For purposes of the previous sentence, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

(C) Application of grounds.—The grounds for exclusion of aliens under subparagraphs (A) and (B) shall apply to immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).

(6) Illegal entrants and immigration violators.—

(A) Aliens previously deported.—Any alien who has been excluded from admission and deported and who again seeks admission within one year of the date of such deportation is excludable, unless prior to the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's reapplying for admission.

(B) Certain aliens previously removed.—Any alien who—

(i) has been arrested and deported,

(ii) has fallen into distress and has been removed pursuant to this or any prior Act,

(iii) has been removed as an alien enemy, or

(iv) has been removed at Government expense in lieu of deportation pursuant to section 242(b), and (a) who seeks admission within 5 years of the date of such deportation or removal, or (b) who seeks admission within 20 years in the case of an alien convicted of an aggravated felony, is excludable, unless before the date of the alien's embarkation or reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's applying or reapplying for admission.

(C) Misrepresentation.—

(i) In general.—Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or entry into the United States or other benefit provided under this Act is excludable.

(ii) Waiver authorized.—For provision authorizing waiver of clause (i), see subsection (i).

(D) Stowaways.—Any alien who is a stowaway is excludable.

(E) Smugglers.—

(i) In general.—Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is excludable.

(ii) Special rule in the case of family reunification.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(iii) Waiver authorized.—For provision authorizing waiver of clause (i), see subsection (d)(11).

(F) Subject of civil penalty.—An alien who is the subject of a final order for violation of section 274C is excludable.

(7) Documentation requirements.—

(A) Immigrants.—

(i) In general.—Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission—

(I) who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General under section 211(a), or

(II) whose visa has been issued without compliance with the provisions of section 203, is excludable.

(ii) Waiver authorized.—For provision authorizing waiver of clause (i), see subsection (k).

(B) Nonimmigrants.—

(i) In general.—Any nonimmigrant who—

(I) is not in possession of a passport valid for a minimum of six months from the date of the expiration of the initial period of the alien's admission or contemplated initial period of stay authorizing the alien to return to the country from which the alien came or to proceed to and enter some other country during such period, or

(II) is not in possession of a valid nonimmigrant visa or border crossing identification card at the time of application for admission,

is excludable.

(ii) General waiver authorized.—For provision authorizing waiver of clause (i), see subsection (d)(4).

(iii) Guam visa waiver.—For provision authorizing waiver of clause (i) in the case of visitors to Guam, see subsection (l).

(iv) Visa waiver pilot program.—For authority to waive the requirement of clause (i) under a pilot program, see section 217.

(8) Ineligible for citizenship.—

(A) In general.—Any immigrant who is permanently ineligible to citizenship is excludable.

(B) Draft evaders.—Any person who has departed from or who has remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency is excludable, except that this subparagraph shall not apply to an alien who at the time of such departure was a nonimmigrant and who is seeking to reenter the United States as a nonimmigrant.

(9) Miscellaneous.—

(A) Practicing polygamists.—Any immigrant who is coming to the United States to practice polygamy is excludable.

(B) Guardian required to accompany excluded alien.—Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 237(e), whose protection or guardianship is required by the alien ordered excluded and deported, is excludable.

(C) International child abduction.—

(i) In general.—Except as provided in clause (ii), any alien who, after entry of an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order, is excludable until



the child is surrendered to the person granted custody by that order.

(ii) Exception.—Clause (i) shall not apply so long as the child is located in a foreign state that is a party to the Hague Convention on the Civil Aspects of International Child Abduction.

(b) Notices of Denials.—If an alien's application for a visa, for admission to the United States, or for adjustment of status is denied by an immigration or consular officer because the officer determines the alien to be excludable under subsection (a), the officer shall provide the alien with a timely written notice that—

(1) states the determination, and

(2) lists the specific provision or provisions of law under which the alien is excludable or ineligible for entry or adjustment of status.

(c) Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of subsection (a) (other than paragraphs (3) and (9)(C)). Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 211(b). The first sentence of this subsection shall not apply to an alien who has been convicted of one or more aggravated felonies and has served for such felony or felonies a term of imprisonment of at least 5 years.

(d)(1) The Attorney General shall determine whether a ground for exclusion exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General's discretion, may waive the applicant of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(s), if the Attorney General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting deportation, proceedings against an alien admitted as an nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S).

[(2) repealed]

(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under subsection (a) (other than paragraphs (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), and (3)(E) of such subsection), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under subsection (a) (other than paragraphs (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), and (3)(E) of such subsection), but who is in possession of appro-

priate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General. The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this paragraph.

(4) Either or both of the requirements of paragraph (7)(B)(i) of subsection (a) may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 238(c).

(5)(A) The Attorney General may, except as provided in subparagraph (B) or in section 214(f), in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.

[(6) repealed]

(7) The provisions of subsection (a) (other than paragraph (7)) shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 237(a) of this Act.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (3)(A), (3)(B), (3)(C), and (7)(B) of subsection (a) of this section.

[(9) and (10) repealed]

(11) The Attorney General may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) in the case of any alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntary and not

under an order of deportation, and who is otherwise admissible to the United States as a returning resident under section 211(b) and in the case of an alien seeking admission or adjustment of status as an immediate relative or immigrant under section 203(a) (other than paragraph (4) thereof) if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(e) No person admitted under section 101(a)(15)(J) or acquiring such status after admission (i) whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence, (ii) who at the time of admission or acquisition of status under section 101(a)(15)(J) was a national or resident of a country which the Director of the United States Information Agency pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged, or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of a least two years following departure from the United States: Provided, That upon the favorable recommendation of the Director, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest: And provided further, That, except in the case of an alien described in clause (iii), the Attorney General may, upon the favorable recommendation of the Director, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Director a statement in writing that it has no objection to such waiver in the case of such alien.

(f) Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.

(g) The Attorney General may waive the application of—

(1) subsection (a)(1)(A)(i) in the case of any alien who—

(A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or

(B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa, or

(2) subsection (a)(1)(A)(ii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulation prescribe.

(h) The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2) and subparagraph (A)(i)(II) of such subsection insofar as it relates to a single offense of simple possession of 30 grams or less of marijuana if—

(1)(A) in the case of any immigrant it is established to the satisfaction of the Attorney General that—

(i) the alien is excludable only under subparagraph (D)(i) or (D)(ii) of such subsection or the activities for which the alien is excludable occurred more than 15 years before the date of the alien's application for a visa, entry, or adjustment of status,

(ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and

(iii) the alien has been rehabilitated; or

(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and

(2) the Attorney General, in his discretion, and pursuant to such terms, conditions and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa, for admission to the United States, or adjustment of status.

No waiver shall be provided under this subsection in the case of an alien who has been convicted of (or who has admitted committing acts that constitute) murder or criminal acts involving torture or an attempt or conspiracy to commit murder or a criminal act involving torture.

(i) The Attorney General may, in his discretion, waive application of clause (i) of subsection (a)(6)(C)—

(1) in the case of an immigrant who is the spouse, parent, or son or daughter of a United States citizen or of an immigrant lawfully admitted for permanent residence, or

(2) if the fraud or misrepresentation occurred at least 10 years before the date of the immigrant's application for a visa, entry, or adjustment of status and it is established to the satis-

faction of the Attorney General that the admission to the United States of such immigrant would not be contrary to the national welfare, safety, or security of the United States.

(j)(1) The additional requirements referred to in section 101(a)(15)(J) for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are as follows:

(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Secretary of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement.

(B) Before making such agreement, the accredited school has been satisfied that the alien (i) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States); or (ii)(I) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services), (II) has competency in oral and written English, (III) will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and (IV) has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States. For the purposes of this subparagraph, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners examination if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of the education or training for which he is coming to the United States, and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health and Human Services, that there is a need in that country for persons with the skills the alien will acquire in such education or training.

(D) The duration of the alien's participation in the program of graduate medical education or training for which the alien is coming to the United States is limited to the time typically required to complete such program, as determined by the Director of the United States Information Agency at the time of the alien's entry into the United States, based on criteria which are established in coordination with the Secretary of Health and Human Services and which take into consideration the published requirements of the medical specialty board

which administers such education or training program; except that—

(i) such duration is further limited to seven years unless the alien has demonstrated to the satisfaction of the Director that the country to which the alien will return at the end of such specialty education or training has an exceptional need for an individual trained in such specialty, and

(ii) the alien may, once and not later than two years after the date the alien enters the United States as an exchange visitor or acquires exchange visitor status, change the alien's designated program of graduate medical education or training if the Director approves the change and if a commitment and written assurance with respect to the alien's new program have been provided in accordance with subparagraph (C).

(E) The alien furnishes the Attorney General each year with an affidavit (in such form as the Attorney General shall prescribe) that attests that the alien (i) is in good standing in the program of graduate medical education or training in which the alien is participating, and (ii) will return to the country of his nationality or last residence upon completion of the education or training for which he came to the United States.

(2) An alien who is a graduate of a medical school and who is coming to the United States to perform services as a member of the medical profession may not be admitted as a nonimmigrant under section 101(a)(15)(H)(i)(b) unless—

(A) the alien is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency, or

(B)(i) the alien has passed the Federation licensing examination (administered by the Federation of State Medical Boards of the United States) or an equivalent examination as determined by the Secretary of Health and Human Services, and

(ii)(I) has competency in oral and written English or (II) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States).

(3) The Director of the United States Information Agency annually shall transmit to the Congress a report on aliens who have submitted affidavits described in paragraph (1)(E), and shall include in such report the name and address of each such alien, the medical education or training program in which such alien is participating, and the status of such alien in that program.

(k) Any alien, excludable from the United States under paragraph (5)(A) or (7)(A)(i) of subsection (a), who is in possession of an immigrant visa may, if otherwise admissible, be admitted in the discretion of the Attorney General if the Attorney General is satisfied that exclusion was not known to, and could not have been ascertained by the exercise of reasonable diligence by, the immigrant before the time of departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory or, in the case of an immigrant coming from foreign con-

tiguous territory, before the time of the immigrant's application for admission.

(1)(1) The requirement of paragraph (7)(B)(i) of subsection (a) of this section may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State and the Secretary of the Interior, after consultation with the Governor of Guam, jointly determine that—

(A) an adequate arrival and departure control system has been developed on Guam, and

(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

(2) An alien may not be provided a waiver under this subsection unless the alien has waived any right—

(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam, or

(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

(3) If adequate appropriated funds to carry out this subsection are not otherwise available, the Attorney General is authorized to accept from the Government of Guam such funds as may be tendered to cover all or any part of the cost of administration and enforcement of this subsection.

(m)(1) The qualifications referred to in section 101(a)(15)(H)(i)(a), with respect to an alien who is coming to the United States to perform nursing services for a facility, are that the alien—

(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States or Canada;

(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

(C) is fully qualified and eligible under the laws (including such temporary or interim licensing requirements which authorize the nurse to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and is authorized under such laws to be employed by the facility.

(2)(A) The attestation referred to in section 101(a)(15)(H)(i)(a) is an attestation as to the following:

(i) There would be a substantial disruption through no fault of the facility in the delivery of health care services of the facility without the services of such an alien or aliens.

(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

(iv) Either (I) the facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses, or (II) the facility is subject to an approved State plan for the recruitment and retention of nurses (described in paragraph (3)).

(v) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(a), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to registered nurses employed at the facility through posting in conspicuous locations.

A facility is considered not to meet clause (i) (relating to an attestation of a substantial disruption in delivery of health care services) if the facility, within the previous year, laid off registered nurses. Notwithstanding the previous sentence, a facility that lays off a registered nurse other than a staff nurse still meets clause (i) if, in its attestation under this subparagraph, the facility has attested that it will not replace the nurse with a nonimmigrant described in section 101(a)(15)(H)(i)(a) (either through promotion or otherwise) for a period of 1 year after the date of the lay off. Nothing in clause (iv) shall be construed as requiring a facility to have taken significant steps described in such clause before the date of the enactment of this subsection. In the case of an alien for whom an employer has filed an attestation under this subparagraph and who is performing services at a worksite other than the employer's or other than a worksite controlled by the employer, the Secretary may waive such requirements for the attestation for the worksite as may be appropriate in order to avoid duplicative attestations, in cases of temporary, emergency circumstances, with respect to information not within the knowledge of the attestor, or for other good cause.

(B) For purposes of subparagraph (A)(iv)(I), each of the following shall be considered a significant step reasonably designed to recruit and retain registered nurses:

(i) Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

(ii) Providing career development programs and other methods of facilitating health care workers to become registered nurses.

(iii) Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area.



(iv) Providing adequate support services to free registered nurses from administrative and other nonnursing duties.

(v) Providing reasonable opportunities for meaningful salary advancement by registered nurses.

The steps described in this subparagraph shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of subparagraph (A)(iv)(I). Nothing herein shall require a facility to take more than one step, if the facility can demonstrate that taking a second step is not reasonable.

(C) Subject to subparagraph (E), an attestation under subparagraph (A) shall—

(i) expire at the end of the 1-year period beginning on the date of its filing with the Secretary of Labor, and

(ii) apply to petitions filed during such 1-year period if the facility states in each such petition that it continues to comply with the conditions in the attestation.

(D) A facility may meet the requirements under this paragraph with respect to more than one registered nurse in a single petition.

(E)(i) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying facilities which have filed petitions for nonimmigrants under section 101(a)(15)(H)(i)(a) and, for each such facility, a copy of the facility's attestation under subparagraph (A) (and accompanying documentation) and each such petition filed by the facility.

(ii) The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a facility's failure to meet conditions attested to or a facility's misrepresentation of a material fact in an attestation. Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary). The Secretary shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to.

(iii) Under such process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to make a finding described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$1,000 per violation) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least 1 year for nurses to be employed by the facility.

(v) In addition to the sanctions provided under clause (iv), if the Secretary of Labor finds, after notice and an opportunity for a hearing, that a facility has violated the condition attested to under subparagraph (A)(iii) (relating to payment of registered nurses at the prevailing wage rate), the Secretary shall order the facility to provide for payment of such amounts of back pay as may be required to comply with such condition.

(3) The Secretary of Labor shall provide for a process under which a State may submit to the Secretary a plan for the recruitment and retention of United States citizens and immigrants who are authorized to perform nursing services as registered nurses in facilities in the State. Such a plan may include counseling and educating health workers and other individuals concerning the employment opportunities available to registered nurses. The Secretary shall provide, on an annual basis in consultation with the Secretary of Health and Human Services, for the approval or disapproval of such a plan, for purposes of paragraph (2)(A)(iv)(II). Such a plan may not be considered to be approved with respect to the facility unless the plan provides for the taking of significant steps described in paragraph (2)(A)(iv)(I) with respect to registered nurses in the facility.

(4) The period of admission of an alien under section 101(a)(15)(H)(i)(a) shall be for an initial period of not to exceed 3 years, subject to an extension for a period or periods, not to exceed a total period of admission of 5 years (or a total period of admission of 6 years in the case of extraordinary circumstances, as determined by the Attorney General).

(5) For purposes of this subsection and section 101(a)(15)(H)(i)(a), the term "facility" includes an employer who employs registered nurses in a home setting.

(n)(1) No alien may be admitted or provided status as a non-immigrant described in section 101(a)(15)(H)(i)(b) in an occupational classification unless the employer has filed with the Secretary of Labor an application stating the following:

(A) The employer—

(i) is offering and will offer during the period of authorized employment to aliens admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) wages that are at least—

(I) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question, or

(II) the prevailing wage level for the occupational classification in the area of employment, whichever is greater, based on the best information available as of the time of filing the application, and

(ii) will provide working conditions for such a non-immigrant that will not adversely affect the working conditions of workers similarly employed.

(B) There is not a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment.

(C) The employer, at the time of filing the application—

(i) has provided notice of the filing under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought, or

(ii) if there is no such bargaining representative, has posted notice of filing in conspicuous locations at the place of employment.

(D) The application shall contain a specification of the number of workers sought, the occupational classification in which the workers will be employed, and wage rate and conditions under which they will be employed.

The employer shall make available for public examination, within one working day after the date on which an application under this paragraph is filed, at the employer's principal place of business or worksite, a copy of each such application (and such accompanying documents as are necessary). The Secretary shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of aliens sought, period of intended employment, and date of need. The Secretary shall make such list available for public examination in Washington, D.C. The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary finds that the application is incomplete or obviously inaccurate, the Secretary shall provide the certification described in section 101(a)(15)(H)(i)(b) within 7 days of the date of the filing of the application.

(2)(A) The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in an application submitted under paragraph (1) or a petitioner's misrepresentation of material facts in such an application. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

(B) Under such process, the Secretary shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C). If the Secretary determines that such a reasonable basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary may consolidate the hearings under this subparagraph on such complaints.

(C) If the Secretary finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(B), a substantial

failure to meet a condition of paragraphs (1)(C) or (1)(D), a willful failure to meet a condition of paragraph (1)(A), or a misrepresentation of material fact in an application—

(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$1,000 per violation) as the Secretary determines to be appropriate, and

(ii) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

(D) If the Secretary finds, after notice and opportunity for a hearing, that an employer has not paid wages at the wage level specified under the application and required under paragraph (1), the Secretary shall order the employer to provide for payment of such amounts of back pay as may be required to comply with the requirements of paragraph (1), whether or not a penalty under subparagraph (C) has been imposed.

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#### GENERAL CLASSES OF DEPORTABLE ALIENS

Sec. 241. (a) Classes of Deportable Aliens.—Any alien (including an alien crewman) in the United States shall, upon the order of the Attorney General, be deported if the alien is within one or more of the following classes of deportable aliens:

(1) Excludable at time of entry or of adjustment of status or violates status.—

(A) Excludable aliens.—Any alien who at the time of entry or adjustment of status was within one or more of the classes of aliens excludable by the law existing at such time is deportable.

(B) Entered without inspection.—Any alien who entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this Act or any other law of the United States is deportable.

(C) Violated nonimmigrant status or condition of entry.—

(i) Nonimmigrant status violators.—Any alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status, is deportable.

(ii) Violators of conditions of entry.—Any alien whom the Secretary of Health and Human Services certifies has failed to comply with terms, conditions, and controls that were imposed under section 212(g) is deportable.

(D) Termination of conditional permanent residence.—

(i) In general.—Any alien with permanent resident status on a conditional basis under section 216 (relat-

ing to conditional permanent resident status for certain alien spouses and sons and daughters) or under section 216A (relating to conditional permanent resident status for certain alien entrepreneurs, spouses, and children) who has had such status terminated under such respective section is deportable.

(ii) Exception.—Clause (i) shall not apply in the cases described in section 216(c)(4) (relating to certain hardship waivers).

(E) Smuggling.—

(i) In general.—Any alien who (prior to the date of entry, at the time of any entry, or within 5 years of the date of any entry) knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is deportable.

(ii) Special rule in the case of family reunification.—Clause (i) shall not apply in the case of alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(iii) Waiver authorized.—The Attorney General may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) in the case of any alien lawfully admitted for permanent residence if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

(F) Failure to maintain employment.—Any alien who obtains the status of an alien lawfully admitted for temporary residence under section 210A who fails to meet the requirement of section 210A(d)(5)(A) by the end of the applicable period is deportable.

(G) Marriage fraud.—An alien shall be considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 212(a)(6)(C)(i)) and to be in the United States in violation of this Act (within the meaning of subparagraph (B)) if—

(i) the alien obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than 2 years prior to such entry of the alien and which, within 2 years subsequent to any entry of the alien in the United States, shall be judicially annulled or ter-

minated, unless the alien establishes to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws, or

(ii) it appears to the satisfaction of the Attorney General that the alien has failed or refused to fulfill the alien's marital agreement which in the opinion of the Attorney General was made for the purpose of procuring the alien's entry as an immigrant.

(H) Waiver authorized for certain misrepresentations.—The provisions of this paragraph relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens described in section 212(a)(6)(C)(i), whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in paragraph (4)(D)) who—

(i) is the spouse, parent, son, or daughter of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

(ii) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds of inadmissibility specified under paragraphs (5)(A) and (7)(A) of section 212(a) which were a direct result of that fraud or misrepresentation.

A waiver of deportation for fraud or misrepresentation granted under this subparagraph shall also operate to waive deportation based on the grounds of inadmissibility at entry directly resulting from such fraud or misrepresentation.

(2) Criminal offenses.—

(A) General crimes.—

(i) Crimes of moral turpitude.—Any alien who—

(I) is convicted of a crime involving moral turpitude committed within five years (or 10 years in the case of an alien provided lawful permanent resident status under section 245(i)) after the date of entry, and

(II) either is sentenced to confinement or is confined therefor in a prison or correctional institution for one year or longer,

is deportable.

(ii) Multiple criminal convictions.—Any alien who at any time after entry is convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial, is deportable.

(iii) Aggravated felony.—Any alien who is convicted of an aggravated felony at any time after entry is deportable.

(iv) Waiver authorized.—Clauses (i), (ii), and (iii) shall not apply in the case of an alien with respect to

a criminal conviction if the alien subsequent to the criminal conviction has been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States.

(B) Controlled substances.—

(i) Conviction.—Any alien who at any time after entry has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), other than a single offense involving possession for one's own use of 30 grams or less of marijuana, is deportable.

(ii) Drug abusers and addicts.—Any alien who is, or at any time after entry has been, a drug abuser or addict is deportable.

(C) Certain firearm offenses.—Any alien who at any time after entry is convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, in violation of any law, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) is deportable.

(D) Miscellaneous crimes.—Any alien who at any time has been convicted (the judgment on such conviction becoming final) of, or has been so convicted of a conspiracy or attempt to violate—

(i) any offense under chapter 37 (relating to espionage), chapter 105 (relating to sabotage), or chapter 115 (relating to treason and sedition) of title 18, United States Code, for which a term of imprisonment of five or more years may be imposed;

(ii) any offense under section 871 or 960 of title 18, United States Code;

(iii) a violation of any provision of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) or the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.); or

(iv) a violation of section 215 or 278 of this Act, is deportable.

(3) Failure to register and falsification of documents.—

(A) Change of address.—An alien who has failed to comply with the provisions of section 265 is deportable, unless the alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

(B) Failure to register or falsification of documents.—Any alien who at any time has been convicted—

(i) under section 266(c) of this Act or under section 36(c) of the Alien Registration Act, 1940,

(ii) of a violation of, or a conspiracy to violate, any provision of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or

(iii) of a violation of, or a conspiracy to violate, section 1546 of title 18, United States Code (relating to fraud and misuse of visas, permits, and other entry documents),

is deportable.

(C) Document fraud.—Any alien who is the subject of a final order for violation of section 274C is deportable.

(4) Security and related grounds.—

(A) In general.—Any alien who has engaged, is engaged, or at any time after entry engages in—

(i) any activity to violate any law of the United States relating to espionage or sabotage or to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

(ii) any other criminal activity which endangers public safety or national security, or

(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means, is deportable.

(B) Terrorist activities.—Any alien who has engaged, is engaged, or at any time after entry engages in any terrorist activity (as defined in section 212(a)(3)(B)(iii)) is deportable.

(C) Foreign policy.—

(i) In general.—An alien whose presence or activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is deportable.

(ii) Exceptions.—The exceptions described in clauses (ii) and (iii) of section 212(a)(3)(C) shall apply to deportability under clause (i) in the same manner as they apply to excludability under section 212(a)(3)(C)(i).

(D) Assisted in nazi persecution or engaged in genocide.—Any alien described in clause (i) or (ii) of section 212(a)(3)(E) is deportable.

(5) Public charge.—Any alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable.

(b) An alien, admitted as a nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or 101(a)(15)(G)(i), and who fails to maintain a status under either of those provisions, shall not be required to depart from the United States without the approval of the Secretary of State, unless such alien is subject to deportation under paragraph (4) of subsection (a).

(c) Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), or (3)(A) of subsection 241(a) (other than so much of paragraph (1) as relates to a ground of exclusion described in paragraph (2) or (3) of section 212(a))



shall not apply to a special immigrant described in section 101(a)(27)(J) based upon circumstances that existed before the date the alien was provided such special immigrant status.

[(d) repealed]

[(e) Redesignated (b)]

[(f) & (g) repealed]

[(h) Redesignated (c)]

#### APPREHENSION AND DEPORTATION OF ALIENS

Sec. 242. (a)(1) Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Except as provided in paragraph (2), any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (A) be continued in custody; or (B) be released under bond in the amount of not less than \$500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or (C) be released on conditional parole. But such bond or parole, whether heretofore or hereafter authorized, may be revoked at any time by the Attorney General, in his discretion, and the alien may be returned to custody under the warrant which initiated the proceedings against him and detained until final determination of his deportability. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or parole pending final decision of deportability upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to determine deportability.

(2)(A) The Attorney General shall take into custody any alien convicted of an aggravated felony upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense). Notwithstanding paragraph (1) or subsections (c) and (d) but subject to subparagraph (B), the Attorney General shall not release such felon from custody.

(B) The Attorney General may not release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, unless the alien demonstrates to the satisfaction of the Attorney General that such alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.

(3)(A) The Attorney General shall devise and implement a system—

(i) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

(ii) to designate and train officers and employees of the Service within each district to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts

with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

(iii) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony and who have been deported; such record shall be made available to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any such previously deported alien seeking to reenter the United States.

(B) The Attorney General shall submit reports to the Committees on the Judiciary of the House of Representatives and of the Senate at the end of the 6-month period and at the end of the 18-month period beginning on the effective date of this paragraph which describe in detail specific efforts made by the Attorney General to implement this paragraph.

(b) A special inquiry officer shall conduct proceedings under this section to determine the deportability of any alien, and shall administer oaths, present and receive evidence, interrogate, examine, and cross-examine the alien or witnesses, and as authorized by the Attorney General, shall make determinations, including orders of deportation. Determination of deportability in any case shall be made only upon a record made in a proceeding before a special inquiry officer, at which the alien shall have reasonable opportunity to be present, unless by reason of the alien's mental incompetency it is impracticable for him to be present, in which case the Attorney General shall prescribe necessary and proper safeguards for the rights and privileges of such alien. If any alien has been given a reasonable opportunity to be present at a proceeding under this section, and without reasonable cause fails or refuses to attend or remain in attendance at such proceeding, the special inquiry officer may proceed to a determination in like manner as if the alien were present. In any case or class of cases in which the Attorney General believes that such procedure would be of aid in making a determination, he may require specifically or by regulation that an additional immigration officer shall be assigned to present the evidence on behalf of the United States and in such case such additional immigration officer shall have authority to present evidence, and to interrogate, examine and cross-examine the alien or other witnesses in the proceedings. Nothing in the preceding sentence shall be construed to diminish the authority conferred upon the special inquiry officer conducting such proceedings. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer acting under the provisions of this section shall be in accordance with such regulations, not inconsistent with this Act, as the Attorney General shall prescribe. Such regulations shall include requirements that are consistent with section 242B and that provide that—

(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held,

(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose,

(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government, and

(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

The procedure so prescribed shall be the sole and exclusive procedure for determining the deportability of an alien under this section. In any case in which an alien is ordered deported from the United States under the provisions of this Act, or of any other law or treaty, the decision of the Attorney General shall be final. In the discretion of the Attorney General, and under such regulations as he may prescribe, deportation proceedings, including issuance of a warrant of arrest, and a finding of deportability under this section need not be required in the case of any alien who admits to belonging to a class of aliens who are deportable under section 241 if such alien voluntarily departs from the United States at his own expense, or is removed at Government expense as hereinafter authorized, unless the Attorney General has reason to believe that such alien is deportable under paragraph (2), (3), or (4) of section 241(a). If any alien who is authorized to depart voluntarily under the preceding sentence is financially unable to depart at his own expense and the Attorney General deems his removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

(c) When a final order of deportation under administrative processes is made against any alien, the Attorney General shall have a period of six months from the date of such order, or, if judicial review is had, then from the date of the final order of the court, within which to effect the alien's departure from the United States, during which period, at the Attorney General's discretion, the alien may be detained, released on bond in an amount and containing such conditions as the Attorney General may prescribe, or released on such other conditions as the Attorney General may prescribe. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or other release during such six-month period upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to effect such alien's departure from the United States within such six-month period. If deportation has not been practicable, advisable, or possible, or departure of the alien from the United States under the order of deportation has not been effected, within such six-month period, the alien shall become subject to such further supervision and detention pending eventual deportation as is authorized in this section. The Attorney General is hereby authorized and directed to arrange for appropriate places of detention for those aliens whom he shall take into custody and detain under this section. Where no Federal buildings are available or buildings adapted or suitably located for the pur-

pose are available for rental, the Attorney General is hereby authorized, notwithstanding section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or section 322 of the Act of June 30, 1932, as amended (40 U.S.C. 278a), to expend, from the appropriation provided for the administration and enforcement of the immigration laws, such amounts as may be necessary for the acquisition of land and the erection, acquisition, maintenance, operation, remodeling, or repair of buildings, sheds, and office quarters (including living quarters for officers where none are otherwise available), and adjunct facilities, necessary for the detention of aliens. For the purposes of this section an order of deportation heretofore or hereafter entered against an alien in legal detention or confinement, other than under an immigration process, shall be considered as being made as of the moment he is released from such detention or confinement, and not prior thereto.

(d) Any alien, against whom a final order of deportation as defined in subsection (c) heretofore or hereafter issued has been outstanding for more than six months, shall, pending eventual deportation, be subject to supervision under regulations prescribed by the Attorney General. Such regulations shall include provisions which will require any alien subject to supervision (1) to appear from time to time before an immigration officer for identification; (2) to submit, if necessary, to medical and psychiatric examination at the expense of the United States; (3) to give information under oath as to his nationality, circumstances, habits, associations, and activities, and such other information, whether or not related to the foregoing, as the Attorney General may deem fit and proper; and (4) to conform to such reasonable written restrictions on his conduct or activities as are prescribed by the Attorney General in his case. Any alien who shall willfully fail to comply with such regulations, or willfully fail to appear or to give information or submit to medical or psychiatric examination if required, or knowingly give false information in relation to the requirements of such regulations, or knowingly violate a reasonable restriction imposed upon his conduct or activity, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(e) Any alien against whom a final order of deportation is outstanding by reason of being a member of any of the classes described in section 241(a), who shall willfully fail or refuse to depart from the United States within a period of six months from the date of the final order of deportation under administrative processes, or, if judicial review is had, then from the date of the final order of the court, or shall willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure, or who shall connive or conspire, or take any other action, designed to prevent or hamper or with the purpose of preventing or hampering his departure pursuant to such order of deportation, or who shall willfully fail or refuse to present himself for deportation at the time and place required by the Attorney General pursuant to such order of deportation, shall upon conviction be guilty of a felony, shall be imprisoned not more than four years, or shall be imprisoned not more than ten years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a). Provided, That this subsection shall not make it illegal for

any alien to take any proper steps for the purpose of securing cancellation of or exemption from such order of deportation or for the purpose of securing his release from incarceration or custody: Provided further, That the court may for good cause suspend the sentence of such alien and order his release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as (1) the age, health, and period of detention of the alien; (2) the effect of the alien's release upon the national security and public peace or safety; (3) the likelihood of the alien's resuming or following a course of conduct which made or would make him deportable; (4) the character of the efforts made by such alien himself and by representatives of the country or countries to which his deportation is directed to expedite the alien's departure from the United States; (5) the reason for the inability of the Government of the United States to secure passports, other travel documents, or deportation facilities from the country or countries to which the alien has been ordered deported; and (6) the eligibility of the alien for discretionary relief under the immigration laws.

(f) Should the Attorney General find that any alien has unlawfully reentered the United States after having previously departed or been deported pursuant to an order of deportation, whether before or after the date of enactment of this Act, on any ground described in any of the paragraphs enumerated in subsection (e), the previous order of deportation shall be deemed to be reinstated from its original date and such alien shall be deported under such previous order at any time subsequent to such reentry. For the purposes of subsection (e) the date on which the finding is made that such reinstatement is appropriate shall be deemed the date of the final order of deportation.

(g) If any alien, subject to supervision or detention under subsections (c) or (d) of this section, is able to depart from the United States under the order of deportation, except that he is financially unable to pay his passage, the Attorney General may in his discretion permit such alien to depart voluntarily, and the expense of such passage to the country to which he is destined may be paid from the appropriation for the enforcement of this Act, unless such payment is otherwise provided for under this Act.

(h) An alien sentenced to imprisonment shall not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

(i) In the case of an alien who is convicted of an offense which makes the alien subject to deportation, the Attorney General shall begin any deportation proceeding as expeditiously as possible after the date of the conviction.

#### EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES

##### Sec. 242A.(a) DEPORTATION OF CRIMINAL ALIENS.—

(1) In general.—The Attorney General shall provide for the availability of special deportation proceedings at certain Federal, State, and local correctional facilities for aliens convicted

of aggravated felonies (as defined in section 101(a)(43)). Such proceedings shall be conducted in conformity with section 242 (except as otherwise provided in this section), and in a manner which eliminates the need for additional detention at any processing center of the Service and in a manner which assures expeditious deportation, where warranted, following the end of the alien's incarceration for the underlying sentence.

(2) Implementation.—With respect to an alien convicted of an aggravated felony who is taken into custody by the Attorney General pursuant to section 242(a)(2), the Attorney General shall, to the maximum extent practicable, detain any such felon at a facility at which other such aliens are detained. In the selection of such facility, the Attorney General shall make reasonable efforts to ensure that the alien's access to counsel and right to counsel under section 292 are not impaired.

(3) Expedited Proceedings.—(A) Notwithstanding any other provision of law, the Attorney General shall provide for the initiation and, to the extent possible, the completion of deportation proceedings, and any administrative appeals thereof, in the case of any alien convicted of an aggravated felony before the alien's release from incarceration for the underlying aggravated felony.

(B) Nothing in this section shall be construed as requiring the Attorney General to effect the deportation of any alien sentenced to actual incarceration, before release from the penitentiary or correctional institution where such alien is confined.

(4) Review.—(A) The Attorney General shall review and evaluate deportation proceedings conducted under this section.

(B) The Comptroller General shall monitor, review, and evaluate deportation proceedings conducted under this section. Within 18 months after the effective date of this section, the Comptroller General shall submit a report to such Committees concerning the extent to which deportation proceedings conducted under this section may adversely affect the ability of such aliens to contest deportation effectively.

**(b) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.-**

(1) The Attorney General may, in the case of an alien described in paragraph (2), determine the deportability of such alien under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony) and issue an order to deportation pursuant to the procedures set forth in this subsection or section 242(b).

(2) An alien is described in this paragraph if the alien—

(A) was not lawfully admitted for permanent residence at the time at which proceedings under this section commenced; and

(B) is not eligible for any relief from deportation under this Act.

(3) The Attorney General may not execute any order described in paragraph (1) until 30 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

(4) Proceedings before the Attorney General under this subsection shall be in accordance with such regulations as the Attorney General shall prescribe. The Attorney General shall provide that—

(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

(B) the alien shall have the privilege of being represented (at not expense to the government) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

(D) the determination of deportability is supported by clear, convincing, and unequivocal evidence and a record is maintained for judicial review; and

(E) the final order of deportation is not entered by the same person who issues the charges.

#### DEPORTATION PROCEDURES

##### Sec. 242B. (a) Notices.—

(1) Order to show cause.—In deportation proceedings under section 242, written notice (in this section referred to as an “order to show cause”) shall be given in person to the alien (or, if personal service is not practicable, such notice shall be given by certified mail to the alien or to the alien’s counsel of record, if any) specifying the following:

(A) The nature of the proceedings against the alien.

(B) The legal authority under which the proceedings are conducted.

(C) The acts or conduct alleged to be in violation of law.

(D) The charges against the alien and the statutory provisions alleged to have been violated.

(E) The alien may be represented by counsel and the alien will be provided a list of counsel prepared under subsection (b)(2).

(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 242.

(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien’s address or telephone number.

(iii) The consequences under subsection (c)(2) of failure to provide address and telephone information pursuant to this subparagraph.

(2) Notice of time and place of proceedings.—In deportation proceedings under section 242—

(A) written notice shall be given in person to the alien (or, if personal service is not practicable, written notice shall be given by certified mail to the alien or to the alien’s counsel of record, if any), in the order to show cause or otherwise, of—

(i) the time and place at which the proceedings will be held, and

(ii) the consequences under subsection (c) of the failure, except under exceptional circumstances, to appear at such proceedings; and

(B) in the case of any change or postponement in the time and place of such proceedings, written notice shall be given in person to the alien (or, if personal service is not practicable, written notice shall be given by certified mail to the alien or to the alien's counsel of record, if any) of—

(i) the new time or place of the proceedings, and

(ii) the consequences under subsection (c) of failing, except under exceptional circumstances, to attend such proceedings.

In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F).

(3) Form of information.—Each order to show cause or other notice under this subsection—

(A) shall be in English and Spanish, and

(B) shall specify that the alien may be represented by an attorney in deportation proceedings under section 242 and will be provided, in accordance with subsection (b)(1), a period of time in order to obtain counsel and a current list described in subsection (b)(2).

(4) Central address files.—The Attorney General shall create a system to record and preserve on a timely basis notices of addresses and telephone numbers (and changes) provided under paragraph (1)(F).

(b) Securing of Counsel.—

(1) In general.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 242, the hearing date shall not be scheduled earlier than 14 days after the service of the order to show cause, unless the alien requests in writing an earlier hearing date.

(2) Current lists of counsel.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent pro bono aliens in proceedings under section 242. Such lists shall be provided under subsection (a)(1)(E) and otherwise made generally available.

(c) Consequences of Failure to Appear.—

(1) In general.—Any alien who, after written notice required under subsection (a)(2) has been provided to the alien or the alien's counsel of record, does not attend a proceeding under section 242, shall be ordered deported under section 242(b)(1) in absentia if the Service establishes by clear, unequivocal, and convincing evidence that, the written notice was so provided and that the alien is deportable. The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F).



(2) No notice if failure to provide address information.—No written notice shall be required under paragraph (1) if the alien has failed to provide the address required under subsection (a)(1)(F).

(3) Rescission of order.—Such an order may be rescinded only—

(A) upon a motion to reopen filed within 180 days after the date of the order of deportation if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (f)(2)), or

(B) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with subsection (a)(2) or the alien demonstrates that the alien was in Federal or State custody and did not appear through no fault of the alien.

The filing of the motion to reopen described in subparagraph (A) or (B) shall stay the deportation of the alien pending disposition of the motion.

(4) Effect on judicial review.—Any petition for review under section 106 of an order entered in absentia under this subsection shall, notwithstanding such section, be filed not later than 60 days (or 30 days in the case of an alien convicted of an aggravated felony) after the date of the final order of deportation and shall (except in cases described in section 106(a)(5)) be confined to the issues of the validity of the notice provided to the alien, to the reasons for the alien's not attending the proceeding, and to whether or not clear, convincing, and unequivocal evidence of deportability has been established.

(d) Treatment of Frivolous Behavior.—The Attorney General shall, by regulation—

(1) define in a proceeding before a special inquiry officer or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

(2) specify the circumstances under which an administrative appeal of a decision or ruling will be considered frivolous and will be summarily dismissed, and

(3) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this subsection shall be construed as limiting the authority of the Attorney General to take actions with respect to inappropriate behavior.

(e) Limitation on Discretionary Relief for Failure to Appear.—

(1) At deportation proceedings.—Any alien against whom a final order of deportation is entered in absentia under this section and who, at the time of the notice described in subsection (a)(2), was provided oral notice, either in the alien's native language or in another language the alien understands, of the time and place of the proceedings and of the consequences under this paragraph of failing, other than because of exceptional circumstances (as defined in subsection (f)(2)) to attend a proceeding under section 242, shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date of the entry of the final order of deportation.

(2) Voluntary departure.—

(A) In general.—Subject to subparagraph (B), any alien allowed to depart voluntarily under section 244(e)(1) or who has agreed to depart voluntarily at his own expense under section 242(b)(1) who remains in the United States after the scheduled date of departure, other than because of exceptional circumstances, shall not be eligible for relief described in paragraph (5) for a period of 5 years after the scheduled date of departure or the date of unlawful re-entry, respectively.

(B) Written and oral notice required.—Subparagraph (A) shall not apply to an alien allowed to depart voluntarily unless, before such departure, the Attorney General has provided written notice to the alien in English and Spanish and oral notice either in the alien's native language or in another language the alien understands of the consequences under subparagraph (A) of the alien's remaining in the United States after the scheduled date of departure, other than because of exceptional circumstances.

(3) Failure to appear under deportation order.—

(A) In general.—Subject to subparagraph (B), any alien against whom a final order of deportation is entered under this section and who fails, other than because of exceptional circumstances, to appear for deportation at the time and place ordered shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date the alien was required to appear for deportation.

(B) Written and oral notice required.—Subparagraph (A) shall not apply to an alien against whom a deportation order is entered unless the Attorney General has provided, orally in the alien's native language or in another language the alien understands and in the final order of deportation under this section of the consequences under subparagraph (A) of the alien's failure, other than because of exceptional circumstances, to appear for deportation at the time and place ordered.

(4) Failure to appear for asylum hearing.—

(A) In general.—Subject to subparagraph (B), any alien—

(i) whose period of authorized stay (if any) has expired through the passage of time,

(ii) who has filed an application for asylum, and

(iii) who fails, other than because of exceptional circumstances, to appear at the time and place specified for the asylum hearing,

shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date of the asylum hearing.

(B) Written and oral notice required.—Subparagraph (A) shall not apply in the case of an alien with respect to a failure to be present at a hearing unless—

(i) written notice in English and Spanish, and oral notice either in the alien's native language or in another language the alien understands, was provided to the alien of the time and place at which the asylum hearing will be held, and in the case of any change or

postponement in such time or place, written notice in English and Spanish, and oral notice either in the alien's native language or in another language the alien understands, was provided to the alien of the new time or place of the hearing; and

(ii) notices under clause (i) specified the consequences under subparagraph (A) of failing, other than because of exceptional circumstances, to attend such hearing.

(5) Relief covered.—The relief described in this paragraph is—

(A) voluntary departure under section 242(b)(1),

(B) suspension of deportation or voluntary departure under section 244, and

(C) adjustment or change of status under section 245, 248, or 249.

(f) Definitions.—In this section:

(1) The term "certified mail" means certified mail, return receipt requested.

(2) The term "exceptional circumstances" refers to exceptional circumstances (such as serious illness of the alien or death of an immediate relative of the alien, but not including less compelling circumstances) beyond the control of the alien.

#### COUNTRIES TO WHICH ALIENS SHALL BE DEPORTED; COST OF DEPORTATION

Sec. 243. (a) The deportation of an alien in the United States provided for in this Act, or any other Act or treaty, shall be directed by the Attorney General to a country promptly designated by the alien if that country is willing to accept him into its territory, unless the Attorney General, in his discretion, concludes that deportation to such country would be prejudicial to the interests of the United States. No alien shall be permitted to make more than one such designation, nor shall any alien designate, as the place to which he wishes to be deported, any foreign territory contiguous to the United States or any island adjacent thereto or adjacent to the United States unless such alien is a native, citizen, subject, or national of, or had a residence in such designated foreign contiguous territory or adjacent island. If the government of the country designated by the alien fails finally to advise the Attorney General within three months following original inquiry whether that government will or will not accept such alien into its territory, such designation may thereafter be disregarded. Thereupon deportation of such alien shall be directed to any country of which such alien is a subject, national, or citizen if such country is willing to accept him into its territory. If the government of such country fails finally to advise the Attorney General or the alien within three months following the date of original inquiry, or within such other period as the Attorney General shall deem reasonable under the circumstances in a particular case, whether that government will or will not accept such alien into its territory, then such deportation shall be directed by the Attorney General within his discretion and without necessarily giving any priority or preference because of their order as herein set forth either—

(1) to the country from which such alien last entered the United States;

(2) to the country in which is located the foreign port at which such alien embarked for the United States or for foreign contiguous territory;

(3) to the country in which he was born;

(4) to the country in which the place of his birth is situated at the time he is ordered deported;

(5) to any country in which he resided prior to entering the country from which he entered the United States;

(6) to the country which had sovereignty over the birthplace of the alien at the time of his birth; or

(7) if deportation to any of the foregoing places or countries is impracticable, inadvisable, or impossible, then to any country which is willing to accept such alien into its territory.

(b) If the United States is at war and the deportation, in accordance with the provisions of subsection (a), of any alien who is deportable under any law of the United States shall be found by the Attorney General to be impracticable, inadvisable, inconvenient, or impossible because of enemy occupation of the country from which such alien came or wherein is located the foreign port at which he embarked for the United States or because of reasons connected with the war, such alien may, in the discretion of the Attorney General, be deported as follows:

(1) If such alien is a citizen or subject of a country whose recognized government is in exile, to the country in which is located that government in exile if that country will permit him to enter its territory; or

(2) if such alien is a citizen or subject of a country whose recognized government is not in exile, then to a country or any political or territorial subdivision thereof which is proximate to the country of which the alien is a citizen or subject, or, with the consent of the country of which the alien is a citizen or subject, to any other country.

(c) If deportation proceedings are instituted at any time within five years after the entry of the alien for causes existing prior to or at the time of entry, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this Act, and the deportation from such port shall be at the expense of the owner or owners of the vessels, aircraft, or other transportation lines by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this Act: Provided, That the costs of the deportation of any such alien from such port shall not be assessed against the owner or owners of the vessels, aircraft, or other transportation lines in the case of any alien who arrived in possession of a valid unexpired immigrant visa and who was inspected and admitted to the United States for permanent residence. In the case of an alien crewman, if deportation proceedings are instituted at any time within five years after the granting of the last conditional permit to land temporarily under the provisions of section 252, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this Act and the deportation from such port shall be

at the expense of the owner or owners of the vessels or aircraft by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this Act.

(d) If deportation proceedings are instituted later than five years after the entry of the alien, or in the case of an alien crewman later than five years after the granting of the last conditional permit to land temporarily, the cost thereof shall be payable from the appropriation for the enforcement of this Act.

(e) A failure or refusal on the part of the master, commanding officer, agent, owner, charterer, or consignee of a vessel, aircraft, or other transportation line to comply with the order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this Act, or a failure or refusal by any such person to comply with an order of the Attorney General to pay deportation expenses in accordance with the requirements of this section, shall be punished by the imposition of a penalty in the sum and manner prescribed in section 237(b).

(f) When in the opinion of the Attorney General the mental or physical condition of an alien being deported is such as to require personal care and attendance, the Attorney General shall, when necessary, employ a suitable person for that purpose who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed, and any failure or refusal to defray such expenses shall be punished in the manner prescribed by subsection (e) of this section.

(g) Upon the notification by the Attorney General that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Secretary of State shall instruct consular officers performing their duties in the territory of such country to discontinue the issuance of immigrant visas to nationals, citizens, subjects, or residents of such country, until such time as the Attorney General shall inform the Secretary of State that such country has accepted such alien.

(h)(1) The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(4)(D)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(C) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States.

For purposes of subparagraph (B), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime.

#### SUSPENSION OF DEPORTATION; VOLUNTARY DEPARTURE

Sec. 244. (a) As hereinafter prescribed in this section, the Attorney General may, in his discretion, suspend deportation and adjust the status to that of an alien lawfully admitted for permanent residence, in the case of an alien (other than an alien described in section 241(a)(4)(D)) who applies to the Attorney General for suspension of deportation and—

(1) is deportable under any law of the United States except the provisions specified in paragraph (2) of this subsection; has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

(2) is deportable under paragraph (2), (3), or (4) of section 241(a); has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

(b)(1) The requirement of continuous physical presence in the United States specified in paragraphs (1) and (2) of subsection (a) of this section shall not be applicable to an alien who (A) has served for a minimum period of twenty-four months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and (B) at the time of his enlistment or induction was in the United States.

(2) An alien shall not be considered to have failed to maintain continuous physical presence in the United States under paragraphs (1) and (2) of subsection (a) if the absence from the United States was brief, casual, and innocent and did not meaningfully interrupt the continuous physical presence.

(c) Upon application by any alien who is found by the Attorney General to meet the requirements of subsection (a) of this section the Attorney General may in his discretion suspend deportation of such alien.

(d) Upon the cancellation of deportation in the case of any alien under this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date the cancellation of deportation of such alien is made.

(e)(1) Except as provided in paragraph (2), the Attorney General may, in his discretion, permit any alien under deportation proceedings, other than an alien within the provisions of paragraph (2), (3), or (4) of section 241(a) (and also any alien within the purview of such paragraphs if he is also within the provisions of paragraph (2) of subsection (a) of this section), to depart voluntarily from the United States at his own expense in lieu of deportation if such alien shall establish to the satisfaction of the Attorney General that he is, and has been, a person of good moral character for at least five years immediately preceding his application for voluntary departure under this subsection.

(2) The authority contained in paragraph (1) shall not apply to any alien who is deportable because of a conviction for an aggravated felony.

(f) The provisions of subsection (a) shall not apply to an alien who—

(1) entered the United States as a crewman subsequent to June 30, 1964;

(2) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education, or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

(3)(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training, (B) is subject to the two-year foreign residence requirement of section 212(e), and (C) has not fulfilled that requirement or received a waiver thereof.

\* \* \* \* \*

#### FORMS AND PROCEDURE

Sec. 264. (a) The Attorney General and the Secretary of State jointly are authorized and directed to prepare forms for the registration of aliens under section 261 of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 262 of this title. Such forms shall contain inquiries with respect to (1) the date and place of entry of the alien into the United States; (2) activities in which he has been and intends to be engaged; (3) the length of time he expects to remain in the United States; (4) the police and criminal record, if any, of such alien; and (5) such additional matters as may be prescribed.

(b) All registration and fingerprint records made under the provisions of this title shall be confidential, and shall be made available

only (1) pursuant to section 287(f)(2), and (2) to such persons or agencies as may be designated by the Attorney General.

(c) Every person required to apply for the registration of himself or another under this title shall submit under oath the information required for such registration. Any person authorized under regulations issued by the Attorney General to register aliens under this title shall be authorized to administer oaths for such purpose.

(d) Every alien in the United States who has been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, or under the provisions of this Act shall be issued a certificate of alien registration or an alien registration receipt card in such form and manner and at such time as shall be prescribed under regulations issued by the Attorney General.

(e) Every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d). Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100 or be imprisoned not more than thirty days, or both.

\* \* \* \* \*

#### REENTRY OF DEPORTED ALIEN

Sec. 276. (a) Subject to subsection (b), any alien who—

(1) has been arrested and deported or excluded and deported, and thereafter

(2) enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously excluded and deported, unless such alien shall establish that he was not required to obtain such advance consent under this or any prior Act, shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both.

(b) Notwithstanding subsection (a), in the case of any alien described in such subsection—

(1) whose deportation was subsequent to a conviction for commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), such alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both; or

(2) whose deportation was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both. For the purposes of this subsection, the term 'deportation' includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.



# AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES

Sec. 277. Any person who knowingly aids or assists any alien excludable under section 212(a)(2) (insofar as an alien excludable under such section has been convicted of an aggravated felony) or 212(a)(3) (other than subparagraph (E) thereof) to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to enter the United States, shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

## IMPORTATION OF ALIEN FOR IMMORAL PURPOSE

Sec. 278. The importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden. Whoever shall, directly or indirectly, import, or attempt to import into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both. The trial and punishment of offenses under this section may be in any district to or into which such alien is brought in pursuance of importation by the person or persons accused, or in any district in which a violation of any of the provisions of this section occurs. In all prosecutions under this section, the testimony of a husband or wife shall be admissible and competent evidence against each other.

\* \* \* \* \*

## POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES

Sec. 287. (a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or expulsion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance

of twenty-five miles from any such external boundary to have access to private lands, but not dwellings for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;

(4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States; and

(5) to make arrests—

(A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony, if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.

(b) Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this Act and the administration of the Service; and any person to whom such oath has been administered (or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code), under the provisions of this Act, who shall knowingly or

willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621, title 18, United States Code.

(c) Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for exclusion from the United States under this Act which would be disclosed by such search.

(d) In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien,

the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.

(e) Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.

(f)(1) Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.

## **L. Extradition of U.S. Citizens**

### **Title 18, U.S.C., Section 3196**

#### **SEC. 3196. EXTRADITION OF UNITED STATES CITIZENS**

If the applicable treaty or convention does not obligate the United States to extradite its citizens to a foreign country, the Secretary of State may, nevertheless, order the surrender to that country of a United States citizen whose extradition has been requested by that country if the other requirements of that treaty or convention are met.

## **M. Violent Crime Control and Law Enforcement Act of 1994**

Partial Text of Public Law 103-322 [H.R. 3355], 108 Stat. 1796, approved  
September 13, 1994.

### **TITLE XIII—CRIMINAL ALIENS AND IMMIGRATION ENFORCEMENT**

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#### **Sec. 130002. CRIMINAL ALIEN TRACKING CENTER.**

(a) OPERATION—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alier tracking center.

(b) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section—

- (1) \$3,400,000 for fiscal year 1996;
- (2) \$3,600,000 for fiscal year 1997;
- (3) \$3,700,000 for fiscal year 1998;
- (4) \$3,800,000 for fiscal year 1999; and
- (5) \$3,900,000 for fiscal year 2000.

## N. Department of Defense Authorization Act, 1987

Partial text of Public Law 99-661 [S. 2638], 100 Stat. 3816, approved  
November 14, 1986, as amended

AN ACT To authorize appropriations for fiscal year 1987 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to improve the defense acquisition process, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,*

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### TITLE XIII—GENERAL PROVISIONS

\* \* \* \* \*

#### PART F—MISCELLANEOUS

\* \* \* \* \*

#### SEC. 1373. DRUG INTERDICTION

(a) COMPREHENSIVE PROGRAM.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a comprehensive program designed to interdict aircraft, vessels, and vehicles carrying illegal drugs into the United States. The program shall include the following:

(1) A clear division of authority in drug interdiction and drug enforcement efforts among all Federal law enforcement agencies involved in those efforts and a mechanism which will insure maximum coordination and cooperation among those agencies.

(2) Designation of a lead agency principally responsible for each of the following areas: marine and air drug interdiction beyond the borders of the United States; domestic and border drug interdiction efforts; and domestic and foreign drug law enforcement efforts.

(3) A requirement that such lead agency shall be advised where possible in advance of activities by any other agency in its area of responsibility and that, upon objection by the lead agency, the matter shall be referred to the National Drug Enforcement Policy Board for resolution.

(4) A comprehensive plan to enhance the capabilities, manpower and equipment of the United States Coast Guard by the end of fiscal year 1989 in order to substantially increase the role of the Coast Guard in drug interdiction and enforcement efforts. Such plan shall specify requirements for command and control between the Coast Guard and the Department of De-

fense and civilian drug law enforcement and interdiction agencies.

(5) A comprehensive plan to maximize, to the extent it does not adversely affect military preparedness and consistent with the provisions of chapter 18 of title 10, United States Code, assistance by the Department of Defense to other agencies in the drug enforcement and interdiction effort.

(6) A requirement that maximum use be made of existing Department of Defense and Coast Guard command and control networks as well as other available military resources, including equipment, intelligence, and training capabilities.

(b) REPORT—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report discussing the following:

(1) Recommendations for amendments to chapter 18 of title 10, United States Code, to allow more efficient use of the Armed Forces in combating illegal drug trafficking.

(2) The legal consequences of amending chapter 18 of title 10, United States Code, to permit the direct participation of members of the Armed Forces in the interdiction of vessels or aircraft, search and seizure, arrest, or other similar activity in the assistance of civilian law enforcement officials.

(3) The amount of training, the cost of training, and the number of military personnel required to effectuate the changes referred to in paragraph (2).

(4) The effect on military preparedness of a drug interdiction program that would require the Armed Forces to halt the unlawful penetration of the United States borders by aircraft and vessels carrying narcotics and that would use military personnel to locate, pursue, and seize such vessels and aircraft and to arrest their crews.

(5) The costs in the areas of procurement, operation and maintenance, and personnel which would be necessary to restore military preparedness to the level existing before commencement of the program described in paragraph (4).

(6) The cost and number of aircraft, vessels, and personnel needed to seal the borders of the United States, including Alaska and Hawaii, to interdict the unlawful penetration of aircraft, vessels, and ground traffic carrying narcotics.

(7) The cost and number of aircraft and personnel needed to provide continuous aerial radar coverage of the United States in order to interdict the unlawful penetration of aircraft carrying narcotics.

(8) The cost and number of rotor wing and fixed wing aircraft needed to pursue and seize intruding aircraft detected by the radar coverage referred to in paragraph (7) including a plan for the deployment of such rotor wing and fixed wing aircraft.

(9) The effect of carrying out the program referred to in paragraph (4) of the United States' ability to meet its defense responsibilities, particularly to members of the North Atlantic Treaty Organization, Japan, Korea, and Australia.

## O. Department of Defense Authorization Act, 1986

Partial text of Public Law 99-145 [S. 1160], 99 Stat. 583, approved November 8, 1985, as amended

AN ACT To authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1986, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize appropriations for fiscal year 1986 for national security programs of the Department of Energy, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

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### TITLE XIV—GENERAL PROVISIONS

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#### PART C—DRUG INTERDICTION, LAW ENFORCEMENT, AND OTHER SPECIFIC PROGRAMS

##### SEC. 1421.<sup>1</sup> ENHANCED DRUG-INTERDICTION ASSISTANCE

(a) MANDATORY ASSIGNMENT OF COAST GUARD PERSONNEL ON NAVAL VESSELS.—The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board each surface naval vessel at sea in a drug-interdiction area at least one member of the Coast Guard who is trained in law enforcement and has power to arrest, search, and seize property and persons suspected of violations of law.

(b) LAW ENFORCEMENT FUNCTIONS.—Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) AUTHORIZATION OF NECESSARY COAST GUARD PERSONNEL; FUNDING.—(1) The active-duty military strength level for the Coast Guard for fiscal year 1986 is increased by 500. Additional members of the Coast Guard who are on active duty by reason of this subsection shall be assigned to duty as provided in subsection (a).

(2) Of the funds appropriated for operation and maintenance for the Navy for fiscal year 1986, the sum of \$15,000,000 shall be transferred to the Secretary of Transportation and shall be available only for the additional personnel authorized by paragraph (1).

(d) DEFINITIONS.—For the purposes of this section:

<sup>1</sup> 14 U.S.C. 89 note.



(1) The term "drug-interdiction area" means an area outside the land area of the United States in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

(2) The term "active-duty military strength level for the Coast Guard for fiscal year 1986" means the full-time equivalent strength level for active-duty military personnel of the Coast Guard for fiscal year 1986 required to be maintained by section 3 of the Coast Guard Authorization Act of 1984 (Public Law 98-557; 98 Stat. 2860).

**SEC. 1422. ESTABLISHMENT, OPERATION, AND MAINTENANCE OF  
DRUG LAW ENFORCEMENT ASSISTANCE ORGANIZATIONS  
OF THE DEPARTMENT OF DEFENSE**

(a) \* \* \*

(b) **COMMAND, CONTROL, AND COORDINATION.**—A special operations headquarters element shall provide necessary command, control, and coordination of appropriate active or Reserve Component special operations forces, combat rescue units, and other units for participation by such forces and units in drug law-enforcement assistance missions.

(c) \* \* \*

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**P. Foreign Relations Authorization Act, Fiscal Years 1986  
and 1987**

**Partial text of Public Law 99-93 [H.R. 2068], 99 Stat. 405, approved August  
16, 1985, as amended**

AN ACT To authorize appropriations for fiscal years 1986 and 1987 for the Department of State, the United States Information Agency, the Board for International Broadcasting, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

\* \* \* \* \*

**TITLE I—DEPARTMENT OF STATE**

\* \* \* \* \*

**SEC. 132.<sup>1</sup> SHARING OF INFORMATION CONCERNING DRUG TRAFFICKERS.**

(a) **REPORTING SYSTEMS.**—In order to ensure that foreign narcotics traffickers are denied visas to enter the United States, as required by section 212(a)(23) of the Immigration and Naturalization Act (22 U.S.C. 1182(a)(23))—

(1) the Department of State shall cooperate with United States law enforcement agencies, including the Drug Enforcement Administration and the United States Customs Service, in establishing a comprehensive information system on all drug arrests of foreign nationals in the United States, so that that information may be communicated to the appropriate United States embassies; and

(2) the National Drug Enforcement Policy Board shall agree on uniform guidelines which would permit the sharing of information on foreign drug traffickers.

(b) **REPORT.**—Not later than six months after the date of the enactment of this Act, the Chairman of the National Drug Enforcement Policy Board shall submit a report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the steps taken to implement this section.

**SEC. 133.<sup>2</sup> EXTRADITION TREATIES.**

The Secretary of State, with the assistance of the National Drug Enforcement Policy Board, shall increase United States efforts to negotiate updated extradition treaties relating to narcotics offenses with each major drug-producing country, particularly those in Latin America.

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<sup>1</sup> 8 U.S.C. 1182 note.

<sup>2</sup> 18 U.S.C. 3181 note.

## TITLE VIII—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

### SEC. 814.<sup>3</sup> UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL.

(a) **ESTABLISHMENT.**—There is established the United States Senate Caucus on International Narcotics Control (hereafter in this section referred to as the "Caucus").

(b) **DUTIES.**—The Caucus is authorized and directed—

(1) to monitor and promote international compliance with narcotics control treaties, including eradication and other relevant issues; and

(2) to monitor and encourage United States Government and private programs seeking to expand international cooperation against drug abuse and narcotics trafficking.

(c) **MEMBERSHIP.**—(1) The Caucus shall be composed of 12 members as follows:

(A) 7 Members of the Senate appointed by the President of the Senate, 4 of whom (including the member designated as Chairman) shall be selected from the majority party of the Senate, after consultation with the majority leader, and 3 of whom (including the member designated as Cochairman) shall be selected from the minority party of the Senate, after consultation with the minority leader.

(B) 5 members of the public to be appointed by the President after consultation with the members of the appropriate congressional committees.

(2) There shall be a Chairman and a Cochairman of the Caucus.

(d) **POWERS.**—In carrying out this section, the Caucus may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpoenas may be issued over the signature of the Chairman of the Caucus or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Caucus, or any member designated by him, may administer oaths to any witness.

(e) **REPORT BY PRESIDENT TO CAUCUS.**—In order to assist the Caucus in carrying out its duties, the President shall submit to the Caucus a copy of the report required by section 489 of the Foreign Assistance Act of 1961 (22 U.S.C. 2991(e)).

(f) **REPORT TO SENATE.**—The Caucus is authorized and directed to report to the Senate with respect to the matters covered by this section on a periodic basis and to provide information to Members of the Senate as requested. For each fiscal year for which an appropriation is made the Caucus shall submit to the Congress a report on its expenditures under such appropriation.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There are authorized to be appropriated to the Caucus \$325,000 for each fiscal year, to remain available until expended, to assist in meeting the expenses of the Caucus for the purpose of carrying out the provisions of this section.

<sup>3</sup>22 U.S.C. 2291 note.

(2) For purposes of section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)), the Caucus shall be deemed to be a standing committee of the Senate and shall be entitled to the use of funds in accordance with such section.

(h) STAFF.—The Caucus may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(i) TERMINATION.—The Caucus shall cease to exist on September 30, 1997.

## Q. International Security and Development Cooperation Act of 1985

Partial text of Public Law 99-83 [S. 960], 99 Stat. 190, approved August 8,  
1985, as amended

AN ACT To authorize international development and security assistance programs  
and Peace Corps programs for fiscal years 1986 and 1987, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

\* \* \* \* \*

### TITLE VI—INTERNATIONAL NARCOTICS CONTROL

\* \* \* \* \*

#### SEC. 617. CUBAN DRUG TRAFFICKING.

(a) FINDINGS.—The Congress finds that—

(1) the subject of the flow, use, and control of narcotic and  
psychotropic substances is a matter of great international im-  
portance;

(2) the problem of drug abuse and drug trafficking continues  
to worsen throughout most parts of the world;

(3) the concerns of the governments of many countries have  
become manifest in several bilateral and multilateral narcotics  
control projects;

(4) United Nations agencies monitor and apply controls on  
the flow and use of drugs and coordinate multilateral efforts to  
control production, trafficking, and abuse of drugs;

(5) the United Nations Fund for Drug Abuse Control funds  
narcotics projects throughout the world and has been a vehicle  
since 1971 for multilateral implementation of narcotics control  
and reduction programs;

(6) the International Narcotics Control Board is charged with  
monitoring compliance with the Single Convention on Narcotic  
Drugs, 1961, and the Convention on Psychotropic Substances,  
and Cuba is a party to both Conventions;

(7) the United Nations Commission on Narcotic Drugs is re-  
sponsible for formulating policies, coordinating activities, su-  
pervising the implementation of international conventions, and  
making recommendations to governments for international  
drug control;

(8) the promotion of drug abuse and participation in drug  
trafficking is universally considered egregious criminal behav-  
ior wherever it occurs, whether it occurs locally, nationally, or  
internationally;

(9) a Federal grand jury of the United States has indicted  
four prominent Cuban officials on charges of conspiring to  
smuggle drugs into the United States;

(305)

(10) United States Government officials have testified at several congressional hearings that the Government of Cuba is facilitating the flow of illicit drugs into the United States in order to obtain hard currency, support guerrilla/terrorist activities, and undermine United States society; and

(11) such alleged conduct on the part of the Government of Cuba would be injurious to the world community and counter to the general principle of international law that no country has the right to use or permit the use of its territory in such a manner as to injure another country or persons therein.

(b) **RECOMMENDED ACTIONS.**—It is the sense of the Congress that the President should—

(1) acting through the Permanent Representative of the United States to the United Nations, take such steps as may be necessary to place the question of the involvement by the Government of Cuba in illicit drug trafficking on the agenda of the United Nations;

(2) acting through the Representative of the United States to the Organization of American States, request the Organization of American States to consider this question as soon as possible; and

(3) request other appropriate international organizations and international forums to consider this question.

(c) **REPORT.**—The President shall report to the Congress on the actions taken pursuant to this section.

\* \* \* \* \*

**SEC. 619.<sup>1</sup> DRUG TRAFFICKING AND THE PROBLEM OF TOTAL CONFIDENTIALITY OF CERTAIN FOREIGN BANK ACCOUNTS.**

(a) **FINDINGS.**—The Congress finds that—

(1) several banks in Latin America and the Caribbean are used by narcotics traffickers as depositories for money obtained in providing illicit drugs to the United States and other countries of the region;

(2) offshore banks which provide total confidentiality provide a service which materially assists the operations of illicit drug traffickers; and

(3) cooperation in gaining access to the bank accounts of such narcotics traffickers would materially assist United States authorities in controlling the activities of such traffickers.

(b) **POLICY.**—The Congress—

(1) requests the President to negotiate treaties or appropriate international agreements with all countries providing confidential banking services (giving high priority to countries in the Caribbean region) to provide disclosure to the United States Government of information contained in official records, and in records of bank accounts, concerning persons under investigation for violations of United States law, in particular those regarding international drug trafficking;

(2) directs the President to include reports on the results of such efforts in the annual International Narcotics Control Strategy Report; and

<sup>1</sup>22 U.S.C. 2291 note.

(3) reaffirms its intention to obtain maximum cooperation on the part of all governments for the purpose of halting international drug trafficking, and constantly to evaluate the cooperation of those governments receiving assistance from the United States.

\* \* \* \* \*

## R. Aviation Drug Trafficking Control Act

TITLE 49, UNITED STATES CODE, SECTIONS 1401, 1422, 1429, AND 1472<sup>1</sup>

### SEC. 1401. REGISTRATION OF AIRCRAFT NATIONALITY—\* \* \*

(e) Suspension or revocation

(1) Any such certificate may be suspended or revoked by the Secretary of Transportation for any cause which renders the aircraft ineligible for registration.

(2)(A) The Administrator shall issue an order revoking the certificate of registration issued to an owner under this section for an aircraft and each other certificate of registration held by such owner under this section, if the Administrator determines that

(i) such aircraft has been used to carry out an activity, or to facilitate an activity, that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance); and

(ii) the use of the aircraft was permitted by such owner with the knowledge that the aircraft was intended to be used for an activity described in clause (i) of this subparagraph.

For purposes of this paragraph, an owner of an aircraft who is not an individual shall be considered to have permitted the use of an aircraft with knowledge that it was intended to be used for an activity described in clause (i) of this subparagraph only if a majority of the individuals who control such owner or who are involved in forming the major policy of such owner permitted the use of the aircraft with knowledge of such intended use. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under subparagraph (B) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity.

(B) Prior to revoking any certificate of registration under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon by the Administrator for his proposed action and shall provide the holder of the certificate of registration an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate of registration is revoked by the Administrator under this subsection may appeal the Administrator's order to the Na-

<sup>1</sup>The Aviation Drug Trafficking Control Act was originally enacted in Public Law 98-499, October 19, 1984, 98 Stat. 2312, and amended the Federal Aviation Act of 1958, 49 USC Appendix Sec. 1301 et seq.



tional Transportation Safety Board and the Board shall, after notice and a hearing on the record, affirm or reverse the Administrator's order. In the conduct of its hearings, the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within 60 days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board's order may obtain judicial review of such order under the provisions of section 1486 of this Appendix, and the Administrator shall be made a party to such proceedings.

(C) For purposes of this paragraph, the term 'controlled substance' has the meaning given such term by section 802(6) of title 21.

(D) Except as provided in subparagraphs (E) and (F), the Administrator shall not issue a certificate of registration to any person who has had a certificate revoked under subparagraph (A) of this paragraph during the five-year period beginning on the date of such revocation.

(E) The Administrator may issue a certificate of registration for an aircraft to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if the Administrator determines that such aircraft is otherwise eligible for registration under this section and (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.

(F) In any case in which the Administrator has revoked the certificate of registration as a result of any activity and such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity, the Administrator shall issue a certificate of registration to such person if such person is otherwise qualified for such a certificate under this section.

(f)-(g) \* \* \*

(h) Modification of system

The Administrator is authorized and directed to make such modifications in the system established under this subchapter for registration and recordation of aircraft as may be necessary to make such system more effective in serving the needs of buyers and sellers of aircraft, officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 802 of title 21), and other users of such system. Such modifications may include a system of titling aircraft or of registering all aircraft

whether or not operated, shall assure positive, verifiable, and timely identification of the true owner, and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

- (1) The registration of aircraft to fictitious persons.
- (2) The use of false or nonexistent addresses by persons registering aircraft.
- (3) The use by a person registering an aircraft of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.
- (4) The registration of aircraft to corporations and other entities established to facilitate unlawful activities.
- (5) The submission of names of individuals on applications for registration of aircraft which are not identifiable.
- (6) The ability to make frequent legal changes in the registration markings which are assigned to aircraft.
- (7) The use of false registration markings on aircraft.
- (8) The illegal use of 'reserved' registration markings on aircraft.
- (9) The large number of aircraft which are classified as being in 'self-reported status'.
- (10) The lack of a system to assure timely and adequate notice of the transfer of ownership of aircraft.
- (11) The practice of allowing temporary operation and navigation of aircraft without issuance of a certificate of registration under this section.

\* \* \* \* \*

#### SEC. 1422. AIRMAN CERTIFICATES

- (a) Authorization to issue \* \* \*
- (b) Application; issuance or denial; petition for review; hearing; determination; issuance of certificates to aliens; revocation; exceptions \* \* \*
- (2) Limitation on reissuance of revoked certificates.—
  - (A) General rule.—Except as provided in subparagraphs (B) and (C), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under section 1429(c) of this Appendix.
  - (B) Special rule for law enforcement purposes.—The Administrator may issue an airman certificate to any person whose airman certificate has been revoked under section 1429(c) of this Appendix if the Administrator determines that issuance of such certificate will facilitate law enforcement efforts.
  - (C) In any case in which the Administrator has revoked an airman certificate of a person under section 1429(c)(1) or (2) of this Appendix as a result of any activity and—
    - (i) such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity; or
    - (ii) in the case of a revocation under section 1429(c)(1) of this Appendix, the judgment of conviction on which the revocation is based is reversed on appeal;

the Administrator shall issue an airman certificate to such person if such person is otherwise qualified to serve as an airman under this section.

(c) \* \* \*

(d) Modification of system

The Administrator is authorized and directed to make such modifications in the system established under this subchapter for issuance of airman's certificates to pilots as may be necessary to make such system more effective in serving the needs of pilots and officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 802 of title 21). Such modifications shall assure positive and verifiable identification of each person applying for or holding such a certificate and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

(1) The use of fictitious names and addresses by applicants for such certificates.

(2) The use of stolen or fraudulent identification in applying for such certificates.

(3) The use by a person applying for such a certificate of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.

(4) The use of counterfeit and stolen airman's certificates by pilots.

(5) The absence of information concerning physical characteristics of holders of such certificates.

\* \* \* \* \*

**SEC. 1429. REINSPECTION OR REEXAMINATION; AMENDMENT, SUSPENSION, OR REVOCATION OF CERTIFICATION; CONTROLLED SUBSTANCES**

(a) Procedure; notification; hearing; appeal to National Transportation Safety Board; judicial review \* \* \*

(b) Violation of certain laws \* \* \*

(c) Transportation, distribution, and other activities relating to controlled substances

(1) The Administrator shall issue an order revoking the airman certificates of any person upon conviction of such person of a crime punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance), if the Administrator determines that (A) an aircraft was used in the commission of the offense or to facilitate the commission of the offense, and (B) such person served as an airman, or was on board such aircraft, in connection with the commission of the offense or the facilitation of the commission of the offense. The Administrator shall have no authority under this paragraph to review the issue of whether an airman violated a State or Federal law relating to a controlled substance.

(2) The Administrator shall issue an order revoking the airman certificates of any person if the Administrator determines that (A) such person knowingly engaged in an activity that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled sub-

stance (other than any law relating to simple possession of a controlled substance), (B) an aircraft was used to carry out such activity or to facilitate such activity, and (C) such person served as an airman, or was on board such aircraft, in connection with such activity or the facilitation of such activity. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under paragraph (3) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity.

(3) Prior to revoking an airman certificate under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon by the Administrator for his proposed action and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate is revoked by the Administrator under this subsection may appeal the Administrator's order to the National Transportation Safety Board and the Board shall, after notice and a hearing on the record, affirm or reverse the Administrator's order. In the conduct of its hearings under this paragraph, the Board shall not be bound by any findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration and of written agency policy guidance available to the public relating to sanctions to be imposed under this subsection unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event, the order shall remain effective and the Board shall finally dispose of the appeal within sixty days after being so advised by the Administrator. A person substantially affected by an order of the Board under this paragraph, or the Administrator in any case in which the Administrator determines that such an order will have a significant adverse impact on the implementation of this chapter, may obtain judicial review of such order under the provisions of section 1486 of this Appendix. The Administrator shall be a party to all proceedings for judicial review under this paragraph. In any such proceeding, the findings of fact of the Board shall be conclusive if supported by substantial evidence.

(4) For purposes of this subsection, the term 'controlled substance' has the meaning given such term by section 802(6) of title 21.

(5) Waiver of revocation requirement.—Upon request of a Federal or State law enforcement official, the Administrator may waive the requirements of paragraphs (1) and (2) that an airman certificate of any person be revoked if the Adminis-

trator determines that such waiver will facilitate law enforcement efforts.

\* \* \* \* \*

## SEC. 1472. CRIMINAL PENALTIES

### (a) Generally

Any person who knowingly and willfully violates any provision of this chapter (except subchapters III, V, VI, VII, and XII of this chapter), or any order, rule, or regulation issued by the Secretary of Transportation or by the Board under any such provision or any term, condition, or limitation of any certificate or permit issued under subchapter IV of this chapter, for which no penalty is otherwise provided in this section or in section 1474 of this Appendix, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject for the first offense to a fine of not more than \$500, and for any subsequent offense to a fine of not more than \$2,000. If such violation is a continuing one, each day of such violation shall constitute a separate offense.

(b) Forgery of certificates, false marking of aircraft, and other aircraft registration violations

#### (1) Description of violations

It shall be unlawful for any person—

(A) to knowingly and willfully forge, counterfeit, alter, or falsely make any certificate authorized to be issued under this chapter, or to knowingly sell, use, attempt to use, or possess with the intent to use any such fraudulent certificate;

(B) to obtain any certificate authorized to be issued under this chapter by knowingly and willfully falsifying, concealing, or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry;

(C) who is the owner of an aircraft eligible for registration under section 1401 of this Appendix, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if such aircraft is not registered under section 1401 of this Appendix or the certificate of registration of such aircraft is suspended or revoked, or if such owner knows or has reason to know that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(D) to knowingly and willfully operate or attempt to operate an aircraft eligible for registration under section 1401 of this Appendix knowing that such aircraft is not registered under section 1401 of this Appendix, that the certificate of registration of such aircraft is suspended or revoked, or that such person does not have proper authorization to operate or navigate such aircraft without registration for a period of time after transfer of ownership;

(E) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such capacity;

(F) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

(G) to operate an aircraft with a fuel tank or fuel system which has been installed or modified on the aircraft knowing that such tank or system or the installation or modification of such tank or system is not in accordance with all applicable rules, regulations, and requirements of the Administrator; or

(H) to knowingly and willfully display or cause to be displayed on any aircraft any marks which are false or misleading as to the nationality or registration of the aircraft.

(2) Penalties

Any person who commits a violation of paragraph (1) shall be, upon conviction, subject to—

(A) a fine of not more than \$15,000 or imprisonment for a term of not more than 3 years, or both; or

(B) a fine of not more than \$25,000 or imprisonment for a term of not more than 5 years, or both, if such violation was in connection with the act of transportation by aircraft of a controlled substance or of the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law or is provided in connection with any act which is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

Any term of imprisonment imposed under subparagraph (B) shall be in addition to, and shall not be served concurrently with, any other term of imprisonment imposed on such person.

(3) Seizure of aircraft

(A) By DEA or Customs

An aircraft used in connection with, or in aiding or facilitating, a violation of paragraph (1) whether or not a person is charged in connection with such violation, may be seized and forfeited by the Drug Enforcement Administration of the Department of Justice or the United States Customs Service in accordance with the customs laws.

(B) Presumptions

For purposes of subparagraph (A), an aircraft shall be presumed to have been used in connection with, or to aid or facilitate a violation of—

(i) paragraph (1)(B) if the aircraft is registered to a fictitious or false person;

(ii) paragraph (1)(B) if the application form used to obtain the aircraft registration certificate contains a material false statement;

(iii) paragraph (1)(A) if the registration for the aircraft has been forged, counterfeited, altered, or falsely made;

(iv) paragraph (1)(C) if the aircraft has been operated while it is not registered under section 1401 of this Appendix;

(v) paragraph (1)(H) if there is an external display of false or misleading registration numbers or false or misleading country of registration;

(vi) paragraph (1)(G) if there is on the aircraft a fuel tank or fuel system which has not been installed or modified in accordance with all applicable rules, regulations, and requirements of the Administrator; and

(vii) paragraph (1)(G) if, in the case of an aircraft on which a fuel tank or fuel system has been installed or modified, a certificate required to be issued by the Administrator for such installation or modification is not carried aboard the aircraft.

(C) Memorandum of understanding

The Federal Aviation Administration, the Drug Enforcement Administration, and the United States Customs Service shall enter into a memorandum of understanding for the purpose of establishing procedures for carrying out the objectives of this paragraph.

(4) Controlled substance defined

For purposes of this section, the term 'controlled substance' has the meaning that such term has under section 802 of title 21.

(5) Effect on State law

Nothing in this subsection or in any other provision of this chapter shall preclude a State from establishing criminal penalties, including providing for forfeiture or seizure of aircraft, for a person who—

(A) knowingly and willfully forges, counterfeits, alters, or falsely makes an aircraft registration certificate;

(B) knowingly sells, uses, attempts to use, or possesses with intent to use a fraudulent aircraft registration certificate;

(C) knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft; or

(D) obtains an aircraft registration certificate from the administrator by knowingly and willfully falsifying, concealing or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry.

(c)-(p) \* \* \*

(q) Lighting violations in connection with transportation of controlled substances

(1) Description of violation

It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Adminis-

trator with respect to the display of navigation or anticollision lights.

(2) Relationship to controlled substance offenses

The act referred to in paragraph (1) is the transportation by aircraft of any controlled substance or the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

(3) Penalty

A person violating this subsection shall be subject to a fine not exceeding \$25,000, or imprisonment not exceeding 5 years, or both.

\* \* \* \* \*



## **S. Comprehensive Crime Control Act of 1984<sup>1</sup>**

### **PARTIAL TEXT OF 28 USC PART II, CHAPTER 31, SEC. 524**

#### **SEC. 524. AVAILABILITY OF APPROPRIATIONS \* \* \***

(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereafter in this subsection referred to as the 'Fund') which shall be available to the Attorney General without fiscal year limitation for the following law enforcement purposes—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expense incident to the seizure, detention, forfeiture, or disposal of such property including—

(i) payments for—

(I) contract services;

(II) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(III) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this clause;

(ii) payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures;

(iii) payments for contracting for the services of experts and consultants needed by the Department of Justice to assist in carrying out duties related to asset seizure and forfeiture; and

(iv) payments made pursuant to guidelines promulgated by the Attorney General if such payments are necessary and directly related to seizure and forfeiture program expenses for—

(I) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

(II) training;

(III) printing;

---

<sup>1</sup>The Comprehensive Crime Control Act of 1984 was originally enacted as Title II (98 STAT 1976), of Public Law 98-473, the "Continuing Appropriations Act of 1985," October 12, 1984.

(IV) the storage, protection, and destruction of controlled substances; and

(V) contracting for services directly related to the identification of forfeitable assets, and the processing of and accounting for forfeitures;

(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 60501 of the Internal Revenue Code of 1986;

(C) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Fund;

(D) the compromise and payment of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(E) disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice;

(F)(i) for equipping for law enforcement functions of any Government-owned or leased vessel, vehicle, or aircraft available for official use by any Federal agency participating in the Fund;

(ii) for equipping any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist law enforcement functions if the vessel, vehicle, or aircraft will be used in a joint law enforcement operation with a Federal agency participating in the Fund; and

(iii) payments for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

(G) for purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, chapter 96 of title 18, or sections 1956 and 1957 of title 18;

(H) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in a joint law enforcement operation with a Federal law enforcement agency participating in the Fund;<sup>2</sup>

(I) after all reimbursements and program-related expenses have been met at the end of fiscal year 1989, the Attorney General may transfer deposits from the Fund to the building

<sup>2</sup>So in original. Probably should be followed by 'and'.

and facilities account of the Federal prison system for the construction of correctional institutions.

Amounts for paying the expenses authorized by subparagraphs (A)(iv), (B), (C), (F), (G), and (H)<sup>3</sup> shall be specified in appropriations Acts and may be used under authorities available to the organization receiving the funds. Amounts for other authorized expenditures and payments from the Fund, including equitable sharing payments, are not required to be specified in appropriations acts. The Attorney General may exempt the procurement of contract services under subparagraph (A) under the fund<sup>4</sup> from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

(2) Any award paid from the Fund for information, as provided in paragraph (1)(B) or (C), shall be paid at the discretion of the Attorney General or his delegate, under existing departmental delegation policies for the payment of awards, except that the authority to pay an award of \$250,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, the Director of the Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. Any award for information pursuant to paragraph (1)(B) shall not exceed \$250,000. Any award for information pursuant to paragraph (1)(C) shall not exceed the lesser of \$250,000 or one-fourth of the amount realized by the United States from the property forfeited.

(3) Any amount under subparagraph (F) of paragraph (1) shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay \$100,000 or more may be delegated only to the respective head of the agency involved.

(4) There shall be deposited in the Fund—

(A) all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)), or the Postmaster General of the United States pursuant to 39 U.S.C. 2003(b)(7);

(B) all amounts representing the Federal equitable share from the forfeiture of property under any Federal, State, local or foreign law, for any Federal agency participating in the Fund; and

(C) all amounts transferred by the Secretary of the Treasury pursuant to section 9703(g)(4)(A)(ii) of title 31.

(5) Amounts in the Fund, and in any holding accounts associated with the Fund<sup>5</sup> which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of,

<sup>3</sup> See 1992 Amendment note.

<sup>4</sup> So in original. Probably should be capitalized.

<sup>5</sup> So in original. Probably should be followed by a comma.

or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(6) The Attorney General shall transmit to the Congress, not later than 4 months after the end of each fiscal year, detailed reports as follows:

(A) a report on—

(i) the estimated total value of property forfeited under any law enforced or administered by the Department of Justice with respect to which funds were not deposited in the Fund; and

(ii) the estimated total value of all such property transferred to any State or local law enforcement agency;

(B) a report on—

(i) the Fund's beginning balance;

(ii) sources of receipts (seized cash, conveyances, and others);

(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies;

(iv) the net amount realized from the year's operations, amount of seized cash being held as evidence, and the amount of money legally allowed to be carried over to next year;

(v) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$1,000,000 or more; and

(vi) year-end Fund balance; and

(C) a report for such fiscal year, containing audited financial statements, in the form prescribed by the Attorney General, in consultation with the Comptroller General, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions (by type of disposition).

(7) The Fund shall be subject to annual audit by the Comptroller General.

(8) The provisions of this subsection relating to deposits in the Fund shall apply to all property in the custody of the Department of Justice on or after the effective date of the Comprehensive Forfeiture Act of 1983.

(9)(A) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(iv), (B), (C), (F), (G), and (H) of paragraph (1).

(B) Subject to subparagraph (C), in each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may transfer from the Fund not more than \$150,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988. Such transfers shall be made at the end of each quarter of the fiscal year involved and on a quarterly pro rata basis.

(C) Transfers under subparagraph (B) may be made only from excess unobligated amounts and only to the extent that, as determined by the Attorney General, such transfers will not impair the future availability of amounts for the purposes

under paragraph (1). Further, transfers under subsection <sup>6</sup> (B) may be made only to the extent that the sum of the transfers for the current fiscal year and the unobligated balance at the beginning of the current fiscal year for the Special Forfeiture Fund do not exceed \$150,000,000.

(D) At the end of each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may retain in the Fund not more than \$15,000,000, or, if determined by the Attorney General to be necessary for asset-specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in preceding fiscal year.

(E) \* \* \* [Repealed by PL 103-121, Sec. 109]

(10) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

(11) The Attorney General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of the Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Department of Justice.

(12) For purposes of this subsection and notwithstanding section 9703 of title 31 or any other law, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Federal law enforcement agency participating in the Department of Justice Assets Forfeiture Fund or the property was maintained by the United States Marshals Service; or

(B) a civil administrative forfeiture proceeding conducted by a Department of Justice law enforcement component.

\* \* \* \* \*

<sup>6</sup>So in original. Probably should be 'subparagraph'.

## T. Tax Equity and Fiscal Responsibility Act of 1982

TEXT OF 26 USC 280E AND APPLICABLE PROVISIONS OF 6103<sup>1</sup>

### SEC. 280E. EXPENDITURES IN CONNECTION WITH THE ILLEGAL SALE OF DRUGS

No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted.

\* \* \* \* \*

### SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION

#### (a) General rule

Returns and return information shall be confidential, and except as authorized by this title—

(1) no officer or employee of the United States,

(2) no officer or employee of any State, any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D) who has or had access to returns or return information under this section, and

(3) no other person (or officer or employee thereof) who has or had access to returns or return information under subsection (e)(1)(D)(iii), (l)(12)<sup>2</sup>, paragraph (2) or (4)(B) of subsection (m), or subsection (n), shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section. For purposes of this subsection, the term 'officer or employee' includes a former officer or employee.

#### (b)-(h) \* \* \*

(i) Disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration

(1) Disclosure of returns and return information for use in criminal investigations

#### (A) In general

Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or mag-

<sup>1</sup>The Tax Equity and Fiscal Responsibility Act of 1982 was originally enacted as Public Law 97-248, September 13, 1982, 96 STAT. 324 et seq.

<sup>2</sup>So in original. Probably should be 'subsection (1)(12)'.

istrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party,

(ii) any investigation which may result in such a proceeding, or

(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party, solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) Application for order

The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

(2) Disclosure of return information other than taxpayer return information for use in criminal investigations

(A) In general

Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28,

United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

(ii) any investigation which may result in such a proceeding, or

(iii) any grand jury proceeding described in paragraph (1)(A)(iii),

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

(B) Requirements

A request meets the requirements of this subparagraph if the request is in writing and sets forth—

(i) the name and address of the taxpayer with respect to whom the requested return information relates;

(ii) the taxable period or periods to which such return information relates;

(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

(C) Taxpayer identity

For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

(3) Disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances

(A) Possible violations of Federal criminal law

(i) In general

Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

(ii) Taxpayer identity

If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

(B) Emergency circumstances

(i) Danger of death or physical injury



Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

(ii) Flight from Federal prosecution

Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

(4) Use of certain disclosed returns and return information in judicial or administrative proceedings

(A) Returns and taxpayer return information

Except as provided in subparagraph (C), any return or taxpayer return information obtained under paragraph (1) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure.

(B) Return information (other than taxpayer return information)

Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), or (3)(A) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

(C) Confidential informant; impairment of investigations

No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(D) Consideration of confidentiality policy

In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

(E) Reversible error

The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

(5) Disclosure to locate fugitives from justice

(A) In general

Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

(B) Application for order

Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate for an order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

(6) Confidential informants; impairment of investigations

The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A), (5), or (7) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(7) Comptroller General

(A) Returns available for inspection

Except as provided in subparagraph (C), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making—

(i) an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms which may be required by section 713 of title 31, United States Code, or

(ii) any audit authorized by subsection (p)(6), except that no such officer or employee shall, except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of

such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other return or return information, except as otherwise expressly provided by law, to any person other than such other officer or employee of such office in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(B) Audits of other agencies

(i) In general

Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

(ii) Information from Secretary

If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (l) or (m) to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

(iii) Requirement of notification upon completion of audit

Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion.

Such notice shall include—

(I) a description of the use of the returns and return information by the Federal agency involved,

(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

(iv) Certain restrictions made applicable

The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph.

(C) Disapproval by Joint Committee on Taxation

Returns and return information shall not be open to inspection or disclosed under subparagraph (A) or (B) with respect to an audit—

(i) unless the Comptroller General of the United States notifies in writing the Joint Committee on Taxation of such audit, and

(ii) if the Joint Committee on Taxation disapproves such audit by a vote of at least two-thirds of its members within the 30-day period beginning on the day the Joint Committee on Taxation receives such notice.

(8) Disclosure of returns filed under section 6050I

The Secretary may, upon written request, disclose returns filed under section 6050I to officers and employees of any Federal agency whose official duties require such disclosure for the administration of Federal criminal statutes not related to tax administration.

\* \* \* \* \*

## U. Narcotics Control Trade Act

Partial text of the Trade Act of 1974 Public Law 93-618, as amended

\* \* \* \* \*

### TITLE VI—GENERAL PROVISIONS

\* \* \* \* \*

#### Sec. 606.<sup>1</sup> INTERNATIONAL DRUG CONTROL.

The President shall submit a report to Congress at least once each calendar year listing those foreign countries in which narcotic drugs and other controlled substances (as listed under section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) are produced, processed, or transported for unlawful entry into the United States. Such report shall include a description of the measures such countries are taking to prevent such production, processing, or transport.

\* \* \* \* \*

### TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF, AND OTHER SANCTIONS AGAINST, UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES<sup>2</sup>

#### SEC. 801. SHORT TITLE.

This title may be cited as the "Narcotics Control Trade Act".

#### SEC. 802.<sup>3</sup> TARIFF TREATMENT OF PRODUCTS OF UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES.

(a)<sup>4</sup> REQUIRED ACTION BY PRESIDENT.—Subject to subsection (b), for every major drug producing country and every major drug-transit country, the President shall, on or after March 1, 1987, and

<sup>1</sup> 19 U.S.C. 2481.

<sup>2</sup> Title VIII was added by sec. 9001 of the Anti-Drug Abuse Act of 1986, (Public Law 99-570; 100 Stat. 3207-164). The heading of title VIII was subsequently amended by sec. 806 of Public Law 100-204 (101 Stat. 1331 at 1399) which added the words "AND OTHER SANCTIONS AGAINST".

<sup>3</sup> 19 U.S.C. 2492. In Proclamation 6103 of February 28, 1990 (55 F.R. 7685), the President determined, in part, that:

"2. \* \* \* pursuant to section 802(b)(1) of the Act, that the Government of Panama is taking adequate steps to prevent such drugs and other controlled substances from being sold illegally within its own jurisdiction \* \* \* or from being transported, directly or indirectly, into the United States, and to prevent and punish the laundering in that country of drug-related profits or drug-related monies. \* \* \*

"4. Accordingly, under the terms of sections 802(b)(1)(A) and 802(b)(4)(B) of the Act, I have decided to restore the preferential tariff treatment under the GSP and the CBERA to articles that are currently eligible for such treatment and that are imported from Panama. \* \* \*"

That Proclamation amended the HTS to make Panama eligible for benefits under the GSP and the CBERA.

<sup>4</sup> Sec. 806 of Public Law 100-204 (101 Stat. 1398) amended subsec. (a) by striking out "or" at the end of par. (3); by redesignating par. (4) as par. (6); by amending par. (6), as so redesignated, to read "in paragraphs (1) through (5)." in lieu of "in paragraphs (1), (2), and (3)."; and by inserting after par. (3) the new pars. (4) and (5).

March 1 of each succeeding year, to the extent considered necessary by the President to achieve the purpose of this title—

(1) deny to any or all of the products of that country tariff treatment under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act, or any other law providing preferential tariff treatment;

(2) apply to any or all of the dutiable products of that country an additional duty at a rate not to exceed 50 percent ad valorem or the specific rate equivalent;

(3) apply to one or more duty-free products of that country a duty at a rate not to exceed 50 percent ad valorem;

(4)<sup>4</sup> take the steps described in subsection (d)(1) or (d)(2), or both, to curtail air transportation between the United States and that country;

(5)<sup>4</sup> withdraw the personnel and resources of the United States from participation in any arrangement with that country for the pre-clearance of customs by visitors between the United States and that country; or”;

(6) take any combination of the actions described in paragraphs (1) through (5).

(b)(1)<sup>5</sup> (A) Subject to paragraph (3), subsection (a) shall not apply with respect to a country if the President determines and certifies to the Congress, at the time of the submission of the report required by section 489<sup>6</sup> of the Foreign Assistance Act of 1961, that—

(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

(I) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in paragraph (B)) or a multilateral agreement which achieves the objectives of paragraph (B),

(II) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

(III) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

(IV) in preventing and punishing bribery and other forms of public corruption which facilitate the illicit<sup>7</sup> production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

<sup>4</sup> Pars. (1) and (2) were extensively amended by sec. 4408 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181).

<sup>5</sup> Formerly read “section 481(e)”. Sec. 6(a) of the International Narcotics Control Act of 1992 (Public Law 102-583; 106 Stat. 4932) provided that “Any reference in any provision of law enacted before the date of enactment of this Act to section 481(e) \* \* \* of that Act shall be deemed to be a reference to section 489.”

<sup>7</sup> Sec. 17(h)(1) of the International Narcotics Control Act of 1989 (Public Law 101-231; 103 Stat. 1965) inserted “illicit” here.

(ii) for a country that would not otherwise qualify for certification under clause (i), the vital national interests of the United States require that subsection (a) not be applied with respect to that country.

(B) A bilateral narcotics agreement referred to in subparagraph (A)(i)(I) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

(i) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

(ii) increase drug interdiction and enforcement;

(iii) increase drug education and treatment programs;<sup>8</sup>

(iv) increase the identification of and elimination of illicit drug laboratories;

(v) increase the identification and elimination of the trafficking of essential<sup>9</sup> precursor chemicals for the use in production of illegal drugs;

(vi) increase cooperation with United States drug enforcement officials; and

(vii) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

(C) A country which in the previous year was designated as a major drug producing country or a major drug-transit country may not be determined to be cooperating fully under subparagraph (A)(i) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of subparagraph (B).

(D) If the President makes a certification with respect to a country pursuant to subparagraph (A)(ii), he shall include in such certification—

(i) a full and complete description of the vital national interests placed at risk if action is taken pursuant to subsection (a) with respect to that country; and

(ii) a statement weighing the risk described in clause (i) 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.

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

<sup>8</sup>Sec. 17(h)(2) of the International Narcotics Control Act of 1989 (Public Law 101-231; 103 Stat. 1965) struck out "treatment" and inserted in lieu thereof "education and treatment programs".

<sup>9</sup>Sec. 17(h)(3) of the International Narcotics Control Act of 1989 (Public Law 101-231; 103 Stat. 1965) inserted "essential" here.

(2)<sup>10</sup> In determining whether to make the certification required by paragraph (1) with respect to a country, the President shall consider the following:

(A) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 481(e)(4) of the Foreign Assistance Act of 1961? In the case of a major drug producing country, the President shall give foremost consideration, in determining whether to make the certification required by paragraph (1), to whether the government of that country has taken actions which have resulted in such reductions.

(B) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

(C) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

(i) the enactment and enforcement by that government of laws prohibiting such conduct,

(ii) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

(iii) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

(D) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the illicit<sup>11</sup> production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

(E) Has that government, as a matter of government policy, encouraged or facilitated the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

<sup>10</sup> On January 26, 1990, the President determined that "Panama has fully cooperated with the United States, or taken adequate steps on its own, to control narcotics production, trafficking, and money laundering, as defined in Section 481(h)(2) of the FAA and Section 802(b) of the Trade Act, and that Panama does not have a government involved in the trade of illicit narcotics. In making this determination, I have considered the factors set forth in Section 481(h)(3) of the FAA and Section 802(b)(2) of the Trade Act." (Presidential Determination No. 90-9 of January 26, 1990; 55 F.R. 4827).

<sup>11</sup> Sec. 17(h)(4) of the International Narcotics Control Act of 1989 (Public Law 101-231; 103 Stat. 1965) inserted "illicit" here.



(F) Does any senior official of that government engage in, encourage, or facilitate the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

(G) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice?

(H) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

(I) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

(J) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

(K) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?

(3) Subsection (a) shall apply to a country without regard to paragraph (1) of this subsection if the Congress enacts, within 45<sup>12</sup> days of continuous session after receipt of a certification under paragraph (1), a joint resolution disapproving the determination of the President contained in that certification.

(4) If the President takes action under subsection (a), that action shall remain in effect until—

(A) the President makes the certification under paragraph (1), a period of 45<sup>12</sup> days of continuous session of Congress elapses, and during that period the Congress does not enact a joint resolution of disapproval; or

(B) the President submits at any other time a certification of the matters described in paragraph (1) with respect to that country, a period of 45<sup>12</sup> days of continuous session of Congress elapses, and during that period the Congress does not enact a joint resolution of disapproving the determination contained in that certification.

(5) For the purpose of expediting the consideration and enactment of joint resolutions under paragraphs (3) and (4)—

(A) a motion to proceed to the consideration of any such joint resolution after it has been reported by the Committee on

<sup>12</sup> Sec. 4408(b) of Public Law 100-690 (102 Stat. 4181) substituted "45" days in lieu of "30" days.

Ways and Means shall be treated as highly privileged in the House of Representatives; and

(B) a motion to proceed to the consideration of any such joint resolution after it has been reported by the Committee on Finance shall be treated as privileged in the Senate.

(c) DURATION OF ACTION.—The action taken by the President under paragraph (1), (2), or (3) of<sup>13</sup> subsection (a) shall apply to the products of a foreign country that are entered, or withdrawn from warehouse for consumption, during the period that such action is in effect.

(d)<sup>14</sup> PRESIDENTIAL ACTION REGARDING AVIATION.—

(1)(A) The President is authorized to notify the government of a country against which is imposed the sanction described in subsection (a)(4) of his intention to suspend the authority of foreign air carriers owned or controlled by the government or nationals of that country to engage in foreign air transportation to or from the United States.

(B) Within 10 days after the date of notification of a government under subparagraph (A), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by the government or nationals of that country to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

(C) The President may also direct the Secretary of Transportation to take such steps as may be necessary to suspend the authority of any air carrier to engage in foreign air transportation between the United States and that country.

(2)(A) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country against which the sanction described in subsection (a)(4) is imposed in accordance with the provisions of that agreement.

(B) Upon termination of an agreement under this paragraph, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government or nationals of that country to engage in foreign air transportation to or from the United States.

(C) Upon termination of an agreement under this paragraph, the Secretary of Transportation may also revoke the authority of any air carrier to engage in foreign air transportation between the United States and that country.

(3) The Secretary of Transportation may provide for such exceptions from paragraphs (1) and (2) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(4) For purposes of this subsection, the terms "air transportation", "air carrier", "foreign air carrier" and "foreign air transportation" have the meanings such terms have under sec-

<sup>13</sup> The words "paragraph (1), (2), or (3) of" were added by sec. 806 of Public Law 100-204 (101 Stat. 1398).

<sup>14</sup> Subsec. (d) was added by sec. 806 of Public Law 100-204 (101 Stat. 1398).

tion 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(e)<sup>15</sup> For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under section 805(3)(A) and (B).

#### SEC. 803.<sup>16</sup> SUGAR QUOTA.

Notwithstanding any other provisions of law, the President may not allocate any limitation imposed on the quantity of sugar to any country which has a Government involved in the trade of illicit narcotics or is failing to cooperate with the United States in narcotics enforcement activities as defined in section 802(b) as determined by the President.

#### SEC. 804.<sup>17</sup> PROGRESS REPORTS.

The President shall include as a part of the annual report required under section 489<sup>18</sup> of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(1)) an evaluation of progress that each major drug producing country and each major drug-transit country has made during the reporting period in achieving the objectives set forth in section 802(b).

#### SEC. 805.<sup>19</sup> DEFINITIONS.

For purposes of this title—

(1) continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated;

(2)<sup>20</sup> the term "major drug producing country" means a country that illicitly produces during a fiscal year 5 metric tons or more of opium or opium derivative, 500 metric tons or more of coca, or 500 metric tons or more of marijuana; and

(3) the term "major drug-transit country" means a country—

(A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States;

(B) through which are transported such drugs or substances; or

(C) through which significant sums of drug-related profits or monies are laundered with the knowledge or complicity of the government; and

(4) the term "narcotic and psychotropic drugs and other controlled substances" has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country or countries concerned.

<sup>15</sup> Subsec. (e) was added by sec. 4408(c) of Public Law 100-690 (102 Stat. 4181).

<sup>16</sup> 19 U.S.C. 2493.

<sup>17</sup> 19 U.S.C. 2494.

<sup>18</sup> Formerly read "section 481(e)(1)". Sec. 6(a) of the International Narcotics Control Act of 1992 (Public Law 102-583; 106 Stat. 4932) provided that "Any reference in any provision of law enacted before the date of enactment of this Act to section 481(e) \* \* \* of that Act shall be deemed to be a reference to section 489."

<sup>19</sup> 19 U.S.C. 2495.

<sup>20</sup> Sec. 17(h)(5) of the International Narcotics Control Act of 1989 (Public Law 101-231; 103 Stat. 1965) restated par. (2).

## V. Asset Forfeiture Legislation <sup>1</sup>

### 1. CIVIL AND CRIMINAL FORFEITURE (18 USC 981, 982)

#### TITLE 18—CRIMES AND CRIMINAL PROCEDURE

##### PART I. CRIMES

##### CHAPTER 46. FORFEITURE

\* \* \* \* \*

#### Section 981. Civil forfeiture

(a)(1) Except as provided in paragraph (2), the following property, real or personal, is subject to forfeiture to the United States:

(A) Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5313(a) or 5324(a) of title 31, or of section 1956 or 1957 of this title, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof.

(B) Any property within the jurisdiction of the United States, constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from an offense against a foreign nation involving the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act), within whose jurisdiction such offense would be punishable by death or imprisonment for a term exceeding one year and which would be punishable under the laws of the United States by imprisonment for a term exceeding one year if such act or activity constituting the offense against the foreign nation had occurred within the jurisdiction of the United States.

(C) Any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of section 215, 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 656, 657, 842, 844, 1005, 1006, 1007, 1014, 1028, 1029, 1030, 1032, or 1344 of this title or a violation of section 1341 or 1343 of such title affecting a financial institution.

(D) Any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of—

<sup>1</sup> See also: sections 1521–1522 of Annunzio-Wylie Anti-Money Laundering Act, Chapter IV-A of this volume, and sections 103 and 1401 of the Crime Control Act of 1990, Chapter IV-B of this volume.

(i) section 666(a)(1) (relating to Federal program fraud);  
 (ii) section 1001 (relating to fraud and false statements);  
 (iii) section 1031 (relating to major fraud against the United States);

(iv) section 1032 (relating to concealment of assets from conservator or receiver of insured financial institution);

(v) section 1341 (relating to mail fraud); or

(vi) section 1343 (relating to wire fraud),

if such violation relates to the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

(E) With respect to an offense listed in subsection (a)(1)(D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which thereby is obtained, directly or indirectly.

(F) Any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

(i) section 511 (altering or removing motor vehicle identification numbers);

(ii) section 553 (importing or exporting stolen motor vehicles);

(iii) section 2119 (armed robbery of automobiles);

(iv) section 2312 (transporting stolen motor vehicles in interstate commerce); or

(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce).

(2) No property shall be forfeited under this section to the extent of the interest of an owner or lienholder by reason of any act or omission established by that owner or lienholder to have been committed without the knowledge of that owner or lienholder.

(b)(1) Any property—

(A) subject to forfeiture to the United States under subparagraph (A) or (B) of subsection (a)(1) of this section—

(i) may be seized by the Attorney General; or

(ii) in the case of property involved in a violation of section 5313(a) or 5324 of title 31, United States Code, or section 1956 or 1957 of this title investigated by the Secretary of the Treasury or the United States Postal Service, may be seized by the Secretary of the Treasury or the Postal Service; and

(B) subject to forfeiture to the United States under subparagraph (C) of subsection (a)(1) of this section may be seized by the Attorney General, the Secretary of the Treasury, or the Postal Service.

(2) Property shall be seized under paragraph (1) of this subsection upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

(A) the seizure is pursuant to a lawful arrest or search; or

(B) the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, has obtained a warrant for such seizure pursuant to the Federal Rules of Criminal Procedure, in which event proceedings under subsection (d) of this section shall be instituted promptly.

(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General or the Secretary of the Treasury, as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

(d) For purposes of this section, the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale of this section, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be. The Attorney General shall have sole responsibility for disposing of petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding.

(e) Notwithstanding any other provision of the law, except section 3 of the Anti Drug Abuse Act of 1986, the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property on such terms and conditions as he may determine—

(1) to any other Federal agency;

(2) to any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property;

(3) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency—

(A) to reimburse the agency for payments to claimants or creditors of the institution; and

(B) to reimburse the insurance fund of the agency for losses suffered by the fund as a result of the receivership or liquidation;

(4) in the case of property referred to in subsection (a)(1)(C), upon the order of the appropriate Federal financial institution regulatory agency, to the financial institution as restitution, with the value of the property so transferred to be set off against any amount later recovered by the financial institution as compensatory damages in any State or Federal proceeding;

(5) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency, to the extent of the agency's contribution of resources to, or expenses involved in, the seizure and forfeiture, and the investigation leading directly to the seizure and forfeiture, of such property;

(6) in the case of property referred to in subsection (a)(1)(C), restore forfeited property to any victim of an offense described in subsection (a)(1)(C); or

(7) In the case of property referred to in subsection (a)(1)(D), to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any other Federal financial institution regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act.

The Attorney General or the Secretary of the Treasury, as the case may be, shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General or the Secretary of the Treasury pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency. The Attorney General or the Secretary of the Treasury may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the complaint in favor of forfeiture proceedings under State or local law. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials. The United States shall not

be liable in any action arising out of a transfer under paragraph (3), (4), or (5) of this subsection.

(f) All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

(g) The filing of an indictment or information alleging a violation of law, Federal, State or local, which is also related to a forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the forfeiture proceeding.

(h) In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

(i)(1) Whenever property is civilly or criminally forfeited under this chapter, the Attorney General or the Secretary of the Treasury, as the case may be, may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(A) has been agreed to by the Secretary of State;

(B) is authorized in an international agreement between the United States and the foreign country; and

(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.

(2) The provisions of this section shall not be construed as limiting or superseding any other authority of the United States to provide assistance to a foreign country in obtaining property related to a crime committed in the foreign country, including property which is sought as evidence of a crime committed in the foreign country.

(3) A certified order or judgment of forfeiture by a court of competent jurisdiction of a foreign country concerning property which is the subject of forfeiture under this section and was determined by such court to be the type of property described in subsection (a)(1)(B) of this section, and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of forfeiture, shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of forfeiture, when admitted into evidence, shall constitute probable cause that the property forfeited by such order or judgment of forfeiture is subject to forfeiture under this section and creates a rebuttable presumption of the forfeitability of such property under this section.

(4) A certified order or judgment of conviction by a court of competent jurisdiction of a foreign country concerning an unlawful drug activity which gives rise to forfeiture under this section and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of conviction shall be admissible in evidence in a proceeding brought pur-



suant to this section. Such certified order or judgment of conviction, when admitted into evidence, creates a rebuttable presumption that the unlawful drug activity giving rise to forfeiture under this section has occurred.

(5) The provisions of paragraphs (3) and (4) of this subsection shall not be construed as limiting the admissibility of any evidence otherwise admissible, nor shall they limit the ability of the United States to establish probable cause that property is subject to forfeiture by any evidence otherwise admissible.

A decision by the Attorney General or the Secretary of the Treasury pursuant to this paragraph shall not be subject to review. The foreign country shall, in the event of a transfer of property or proceeds of sale of property under this subsection, bear all expenses incurred by the United States in the seizure, maintenance, inventory, storage, forfeiture, and disposition of the property, and all transfer costs. The payment of all such expenses, and the transfer of assets pursuant to this paragraph, shall be upon such terms and conditions as the Attorney General or the Secretary of the Treasury may, in his discretion, set.

(j) For purposes of this section—

(1) the term "Attorney General" means the Attorney General or his delegate; and

(2) the term "Secretary of the Treasury" means the Secretary of the Treasury or his delegate.

## **Section 982. Criminal forfeiture**

(a)(1) The court, in imposing sentence on a person convicted of an offense in violation of section 5313(a), 5316 or 5324 of title 31, or of section 1956, 1957, or 1960 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof.

(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

(A) section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, or

(B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title,

shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.

(3) The court, in imposing a sentence on a person convicted of an offense under—

(A) section 666(a)(1) (relating to Federal program fraud);

(B) section 1001 (relating to fraud and false statements);

(C) section 1031 (relating to major fraud against the United States);

(D) section 1032 (relating to concealment of assets from conservator, receiver or liquidating agent of insured financial institution);

(E) section 1341 (relating to mail fraud); or

(F) section 1343 (relating to wire fraud),

involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.

(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

(A) section 511 (altering or removing motor vehicle identification numbers);

(B) section 553 (importing or exporting stolen motor vehicles);

(C) section 2119 (armed robbery of automobiles);

(D) section 2312 (transporting stolen motor vehicles in interstate commerce); or

(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce); shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of such violation.

(b)(1) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed—

(A) in the case of a forfeiture under subsection (a)(1) of this section, by subsections (c) and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853); and

(B) in the case of a forfeiture under subsection (a)(2) of this section, by subsections (b), (c), (e), and (g) through (p) of section 413 of such Act.

(2) The substitution of assets provisions of subsection 413(p) shall not be used to order a defendant to forfeit assets in place of the actual property laundered where such defendant acted merely as an intermediary who handled but did not retain the property in the course of the money laundering offense unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions

involving a total of \$ 100,000 or more in any twelve month period.

## 2. DISPOSITION OF FORFEITED PROPERTY (19 USC 1616a)

\* \* \* \* \*

### TITLE 19. CUSTOMS DUTIES

#### CHAPTER 4. TARIFF ACT OF 1930

#### SUBTITLE III—ADMINISTRATIVE PROVISIONS

#### PART V—ENFORCEMENT PROVISIONS

\* \* \* \* \*

### Section 1616a. Disposition of forfeited property

(a) State proceedings. The Secretary of the Treasury may discontinue forfeiture proceedings under this Act in favor of forfeiture under State law. If a complaint for forfeiture is filed under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

(b) Transfer of seized property; notice. If forfeiture proceedings are discontinued or dismissed under this section—

(1) the United States may transfer the seized property to the appropriate State or local officials; and

(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

(c) Retention or transfer of forfeited property.

(1) The Secretary of the Treasury may apply property forfeited under this Act in accordance with subparagraph (A) or (B), or both:

(A) Retain any of the property for official use.

(B) Transfer any of the property to—

(i) any other Federal agency;

(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property; or

(iii) the Civil Air Patrol.

(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(A) has been agreed to by the Secretary of State;

(B) is authorized in an international agreement between the United States and the foreign country; and

(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.

(3) Aircraft may be transferred to the Civil Air Patrol under paragraph (1)(B)(iii) in support of air search and rescue and other emergency services and, pursuant to a memorandum of understanding entered into with a Federal agency, illegal drug traffic surveillance. Jet-powered aircraft may not be trans-

ferred to the Civil Air Patrol under the authority of paragraph (1)(B)(iii).

(d) Liability of United States after transfer. The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.

### 3a. FORFEITURES (21 USC 881)

#### TITLE 21—FOOD AND DRUGS

##### CHAPTER 13. DRUG ABUSE PREVENTION AND CONTROL ADMINISTRATIVE AND ENFORCEMENT PROVISIONS

\* \* \* \* \*

#### Section 881. Forfeitures

(a) Subject property. The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this title.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this title.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1), (2), or (9).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), (2), or (9), except that—

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this title or title III;

(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this title.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any

person in exchange for a controlled substance in violation of this title, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this title, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(7) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this title punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

(8) All controlled substances which have been possessed in violation of this title.

(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, imported, or exported, in violation of a felony provision of this title or title III.

(10) Any drug paraphernalia (as defined in section 1822 of the Mail Order Drug Paraphernalia Control Act.

(11) Any firearm (as defined in section 921 of title 18, United States Code) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.

(b) Seizure pursuant to Supplemental Rules for Certain Admiralty and Maritime Claims. Any property subject to civil forfeiture to the United States under this title may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this title;

(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the Attorney General has probable cause to believe that the property is subject to civil forfeiture under this title.

In the event of seizure pursuant to paragraph (3) or (4) of this subsection, proceedings under subsection (d) of this section shall be instituted promptly.

The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

(c) Custody of Attorney General. Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this title, the Attorney General may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

(d) Other laws and proceedings applicable. The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this title, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this title by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

(e) Disposition of forfeited property.

(1) Whenever property is civilly or criminally forfeited under this title the Attorney General may—

(A) retain the property for official use or, in the manner provided with respect to transfers under section 616 of the Tariff Act of 1930, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

(B) except as provided in paragraph (4), sell, by public sale or any other commercially feasible means, any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

(D) forward it to the Bureau of Narcotics and Dangerous Drugs for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General); or

(E) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indi-

rectly in the seizure or forfeiture of the property, if such a transfer—

(i) has been agreed to by the Secretary of State;

(ii) is authorized in an international agreement between the United States and the foreign country; and

(iii) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.

(2) (A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this title shall be used to pay—

(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

(ii) awards of up to \$ 100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent. Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, United States Code, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A), except that, with respect to forfeitures conducted by the Postal Service, the Postal Service shall deposit in the Postal Service Fund, under section 2003(b)(7) of title 39, United States Code, such moneys and proceeds.

(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(4) (A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this title, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

- (i) such use will be the principal use of the property; and
  - (ii) title to the property reverts to the United States in the event that the property is used otherwise.
- (f) Forfeiture of schedule I or II substances.

(1) All controlled substances in schedule I or II that are possessed, transferred, sold, or offered for sale in violation of the provisions of this title; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I or II, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this title; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products under such circumstances as the Attorney General may deem necessary.

(g) Plants.

(1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this title, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

(h) Property title, etc. vested in United States. All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

(i) Stay of civil proceeding. The filing of an indictment or information alleging a violation of this title or title III, or a violation of State or local law that could have been charged under this title or title III, which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

(j) Venue. In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceedin



for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

[(k)](l) Functions. The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.

### 3.b. ESTABLISHMENT OF A SPECIAL FORFEITURE FUND (21 USC 1509)

#### TITLE 21—FOOD AND DRUGS

##### CHAPTER 20. COORDINATION OF NATIONAL DRUG POLICY

##### NATIONAL DRUG CONTROL PROGRAM

\* \* \* \* \*

#### Section 1509.<sup>2</sup> Establishment of special forfeiture fund

(a) In general. There is established in the Treasury of the United States the Special Forfeiture Fund (hereafter referred to in this section as the "Fund") which shall be available to the Director of the National Drug Control Policy without fiscal year limitation in such amounts as may be specified in appropriations acts.

(b) Deposits. There shall be deposited into the Fund, the amounts specified by section 524(c)(9) of title 28, United States Code, and section 9307(g) of title 31, United States Code, and any earnings on the investments authorized by subsection (d).

(c) Super Surplus. (1) Any unobligated balance up to \$20,000,000 remaining in the Fund on September 30 of a fiscal year shall be available to the Director, subject to paragraph (2), to transfer to, and for obligation and expenditure in connection with drug control activities of, any Federal agency or State or local entity with responsibilities under the National Drug Control Strategy.

(2) A transfer may be made under paragraph (1) only with the advance written approval of the Committees on Appropriations of each House of Congress.

(d) Investment of fund. Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(e) President's budget. The President shall, in consultation with the Director for National Drug Control Policy, include, as part of the budget submitted to the Congress under section 1105(a) of title 31, United States Code, a separate and detailed request for the use of the amounts in the Fund. This request shall reflect the priorities of the National Drug Control strategy.

(f) Funds provided supplemental. Funds disbursed under this subsection shall not be used to supplant existing funds, but shall be used to supplement the amount of funds that would be otherwise available.

<sup>2</sup>Originally added by sec. 6073 of the Assets Forfeiture Amendments Act of 1988, Title VI, subtitle B of P.L. 100-690.

(g) Annual report. No later than 4 months after the end of each fiscal year, the President shall submit to both Houses of Congress a detailed report on the amounts deposited in the Fund and a description of expenditures made under this subsection.

#### 4. DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND (28 USC 524(c))

### TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

#### PART II. DEPARTMENT OF JUSTICE

#### CHAPTER 31. THE ATTORNEY GENERAL

\* \* \* \* \*

#### Section 524. Availability of appropriations

(a) \*\*\*

(b) \*\*\*

(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereafter in this subsection referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation for the following law enforcement purposes—

(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expense incident to the seizure, detention, forfeiture, or disposal of such property including—

(i) payments for—

(I) contract services;

(II) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(III) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this clause;

(ii) payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures;

(iii) payments for contracting for the services of experts and consultants needed by the Department of Justice to assist in carrying out duties related to asset seizure and forfeiture; and

(iv) payments made pursuant to guidelines promulgated by the Attorney General if such payments are necessary and directly related to seizure and forfeiture program expenses for—

(I) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

(II) training;

(III) printing;

(IV) the storage, protection, and destruction of controlled substances; and (V) contracting for services directly related to the identification of forfeitable assets, and the processing of and accounting for forfeitures;

(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986;

(C) at the discretion of the Attorney General, the payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Federal agency participating in the Fund;

(D) the compromise and payment of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

(E) disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice;

(F) (i) for equipping for law enforcement functions of any Government-owned or leased vessel, vehicle, or aircraft available for official use by any Federal agency participating in the Fund;

(ii) for equipping any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist law enforcement functions if the vessel, vehicle, or aircraft will be used in a joint law enforcement operation with a Federal agency participating in the Fund; and

(iii) payments for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

(G) for purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, chapter 96 of title 18, or sections 1956 and 1957 of title 18;

(H) the payment of State and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order; and

(I)<sup>3</sup> payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in a joint law enforcement

<sup>3</sup>This subparagraph was redesignated "I" by section 320913 of P.L. 103-322, resulting in two subparagraphs "I".

operation with a Federal law enforcement agency participating in the Fund;

(I) after all reimbursements and program-related expenses have been met at the end of fiscal year 1989, the Attorney General may transfer deposits from the Fund to the building and facilities account of the Federal prison system for the construction of correctional institutions.

Amounts for paying the expenses authorized by subparagraphs (A)(ii), (B), (C), (F), and (G) shall be specified in appropriations Acts and may be used under authorities available to the organization receiving the funds. Amounts for other authorized expenditures and payments from the Fund, including equitable sharing payments, are not required to be specified in appropriations acts. The Attorney General may exempt the procurement of contract services under subparagraph (A) under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

(2) Any award paid from the Fund for information, as provided in paragraph (1) (B) or (C), shall be paid at the discretion of the Attorney General or his delegate, under existing departmental delegation policies for the payment of awards, except that the authority to pay an award of \$ 250,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, the Director of the Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. Any award for information pursuant to paragraph (1)(B) shall not exceed \$ 250,000. Any award for information pursuant to paragraph (1)(C) shall not exceed the lesser of \$ 250,000 or one-fourth of the amount realized by the United States from the property forfeited.

(3) Any amount under subparagraph (F) of paragraph (1) shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay \$ 100,000 or more may be delegated only to the respective head of the agency involved.

(4) There shall be deposited in the Fund—

(A) all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)), or the Postmaster General of the United States pursuant to 39 U.S.C. 2003(b)(7);

(B) all amounts representing the Federal equitable share from the forfeiture of property under any Federal, State, local or foreign law, for any Federal agency participating in the Fund; and

(C) all amounts transferred by the Secretary of the Treasury pursuant to section 9703(g)(4)(A)(ii) of title 31.

(5) Amounts in the Fund, and in any holding accounts associated with the Fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(6) The Attorney General shall transmit to the Congress, not later than 4 months after the end of each fiscal year, detailed reports as follows:

(A) a report on—

(i) the estimated total value of property forfeited under any law enforced or administered by the Department of Justice with respect to which funds were not deposited in the Fund; and

(ii) the estimated total value of all such property transferred to any State or local law enforcement agency;

(B) a report on—

(i) the Fund's beginning balance;

(ii) sources of receipts (seized cash, conveyances, and others);

(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies;

(iv) the net amount realized from the year's operations, amount of seized cash being held as evidence, and the amount of money legally allowed to be carried over to next year;

(v) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$ 1,000,000 or more; and

(vi) year-end Fund balance;

(C) a report for such fiscal year, containing audited financial statements, in the form prescribed by the Attorney General, in consultation with the Comptroller General, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions (by type of disposition). The report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under subparagraph (B) of paragraph (7).

(D) a report for such fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).

(7) (A) The Fund shall be subject to annual audit by the Comptroller General.

(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.

(8) The provisions of this subsection relating to deposits in the Fund shall apply to all property in the custody of the Department of Justice on or after the effective date of the Comprehensive Forfeiture Act of 1983.

(9) (A) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(iv), (B), (C), (F), (G), and (H) of paragraph (1).

(B) Subject to subparagraphs (C) and (D), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Attorney General shall transfer from the Fund not more than \$100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988.

(C) Transfers under subparagraph (B) may be made only from the excess unobligated balance and may not exceed one-half of the excess unobligated balance for any year. In addition, transfers under subsection (B) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed \$ 100,000,000.

(D) For the purpose of determining amounts available for distribution at year end for any fiscal year, 'excess unobligated balance' means the unobligated balance of the Fund generated by that fiscal year's operations, less any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under paragraph (1).

(E) [Deleted]

(10) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

(11) The Attorney General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of the Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Department of Justice.

(12) For purposes of this subsection and notwithstanding section 9703 of title 31 or any other law, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Federal law enforcement agency participating in the Department of Justice Assets Forfeiture Fund or the property was maintained by the United States Marshals Service; or

(B) a civil administrative forfeiture proceeding conducted by a Department of Justice law enforcement component.

## 5. DEPARTMENT OF JUSTICE TREASURY FORFEITURE FUND (31 USC 9703)

### TITLE 31—MONEY AND FINANCE

#### SUBTITLE VI. MISCELLANEOUS

#### CHAPTER 97. MISCELLANEOUS

### Section 9703. Department of the Treasury Forfeiture Fund

(a) In general. There is established in the Treasury of the United States a fund to be known as the "Department of the Treasury Forfeiture Fund" (referred to in this section as the "Fund"). The Fund shall be available to the Secretary, without fiscal year limitation, with respect to seizures and forfeitures made pursuant to any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986 enforced or administered by the Department of the Treasury or the United States Coast Guard for the following law enforcement purposes:

(1) (A) Payment of all proper expenses of seizure (including investigative costs incurred by a Department of the Treasury law enforcement organization leading to seizure) or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court.

(B) Payment for—

(i) contract services;

(ii) the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(iii) reimbursing any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph.

(C) Awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619).

(D) Satisfaction of—

(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate Customs officer according to law; and

(ii) subject to the discretion of the Secretary, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by a Department of the Treasury law enforcement organization. To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in State real estate law.

(E) Payment of amounts authorized by law with respect to remission and mitigation.

(F) Payment of claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure.

(G) Equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or subsection (h) of this section, and all costs related thereto.

(H) Payment for services of experts and consultants needed by a Department of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.

(2) At the discretion of the Secretary—

(A) payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Department of the Treasury law enforcement organization participating in the Fund;

(B) purchases of evidence or information by—

(i) a Department of the Treasury law enforcement organization with respect to—

(I) a violation of section 1956 or 1957 of title 18 (relating to money laundering); or

(II) a law, the violation of which may subject property to forfeiture under section 981 or 982 of title 18; (ii) the United States Customs Service with respect to drug smuggling or a violation of section 542 or 545 of title 18 (relating to fraudulent customs invoices or smuggling);

(iii) the United States Secret Service with respect to a violation of—

(I) section 1028, 1029, or 1030 or title 18;

(II) any law of the United States relating to coins, obligations, or securities of the United States or of a foreign government; or

(III) any law of the United States which the United States Secret Service is authorized to enforce relating to fraud or other criminal or unlawful activity in or against any federally insured financial institution, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation;

(iv) the United States Customs Service or the Internal Revenue Service with respect to a violation of chapter 53 of this title (relating to the Bank Secrecy Act); and

(v) the Bureau of Alcohol, Tobacco and Firearms with respect to a violation of—

(I) section 842(h) of title 18;

(II) section 844 (d), (e), (f), (g), (h), or (i) of title 18; or

(III) section 924(c) of title 18;



(C) payment of costs for publicizing awards available under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

(D) payment for equipment for any vessel, vehicle, or aircraft available for official use by a Department of the Treasury law enforcement organization to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

(E) the payment of claims against employees of the Customs Service settled by the Secretary under section 630 of the Tariff Act of 1930;

(F) payment for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with a Department of the Treasury law enforcement organization;

(G) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization;

(H) reimbursement of private persons for expenses incurred by such persons in cooperating with a Department of the Treasury law enforcement organization in investigations and undercover law enforcement operations;

(I) payment for training foreign law enforcement personnel with respect to seizure or forfeiture activities of the Department of the Treasury; and

(J) payment made pursuant to guidelines promulgated by the Secretary, if such payment is necessary and directly related to seizure and forfeiture program expenses for—

(i) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

(ii) training;

(iii) printing; and

(iv) contracting for services directly related to—

(I) the identification of forfeitable assets;

(II) the processing of and accounting for forfeitures; and

(III) the storage, maintenance, protection, and destruction of controlled substances.

(b) Limitations.

(1) Any payment made under subparagraph (D) or (E) of subsection (a)(1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

(2) Any payment made under subsection (a)(1)(G) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.

(3) The Secretary may exempt the procurement of contract services under the Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

(4) The Secretary shall assure that any equitable sharing payment made to a State or local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (h)—

(A) has a value that bears a reasonable relationship to the degree of participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(5) Amounts transferred by the Attorney General pursuant to section 524(c)(1) of title 28, or by the Postmaster General pursuant to section 2003 of title 39, and deposited into the Fund pursuant to subsection (d), shall be available for Federal law enforcement related purposes of the Department of the Treasury law enforcement organizations.

(c) Funds available to United States Coast Guard.

(1) The Secretary shall make available to the United States Coast Guard, from funds appropriated under subsection (g)(2) in excess of \$ 10,000,000 for a fiscal year, an amount equal to the net proceeds in the Fund derived from seizures by the Coast Guard.

(2) Funds made available under this subsection may be used to—

(A) pay for equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

(B) pay for equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with the United States Coast Guard;

(C) pay for overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard;

(D) pay for expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

(d) Deposits and credits.

(1) With respect to fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited during fiscal year 1993, and all proceeds from forfeitures during fiscal year 1993, under any law enforced or administered by the United States Customs Service or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of the United States Customs Service or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(2) With respect to fiscal years beginning after fiscal year 1993, there shall be deposited into or credited to the Fund—

(A) all currency forfeited after fiscal year 1993, and all proceeds from forfeitures after fiscal year 1993, under any law (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard;

(B) all income from investments made under subsection (e); and

(C) all amounts representing the equitable share of a Department of the Treasury law enforcement organization or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

(e) Investments. Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section may be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(f) Reports to Congress. The Secretary shall transmit to the Congress, not later than February 1 of each year—

(1) a report on—

(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—

(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993; and

(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993; and

(B) the estimated total value of all such property transferred to any State or local law enforcement agency; and

q(2) a report on—

(A) the balance of the Fund at the beginning of the preceding fiscal year;

(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year;

(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year;

(D) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at \$ 1,000,000 or more;

(E) the total dollar value of uncontested seizures of monetary instruments having a value of over \$ 100,000 which, or the proceeds of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year;

(F) the balance of the Fund at the end of the preceding fiscal year;

(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes;

(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101-576); and

(I) an analysis of income and expenses showing the revenue received or lost—

(i) by property category (such as general property, vehicles, vessels, aircraft, cash, and real property); and

(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).

The Fund shall be subject to annual financial audits as authorized in the Chief Financial Officers Act of 1990 (Public Law 101-576).

(g) Appropriations.

(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes described in subsection (a)(1).

(2) There are authorized to be appropriated from the Fund to carry out the purposes set forth in subsections (a)(2) and (c) not to exceed—

(A) \$ 25,000,000 for fiscal year 1993; and

(B) \$ 50,000,000 for each fiscal year after fiscal year 1993.

(3) (A) Subject to subparagraphs (B) and (C), at the end of each of fiscal years 1994, 1995, 1996, and 1997, the Secretary shall transfer from the Fund not more than \$100,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988; and

(B) Transfers pursuant to subparagraph (A) shall be made only from excess unobligated amounts and only to

the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a). Further transfers under subparagraph (A) may not exceed one-half of the excess unobligated balance for a year. In addition, transfers under subparagraph (A) may be made only to the extent that the sum of the transfers in a fiscal year and one-half of the unobligated balance at the beginning of that fiscal year for the Special Forfeiture Fund does not exceed \$100,000,000.

(C) The Secretary of the Treasury shall reserve an amount not to exceed \$ 30,000,000 from the unobligated balances remaining in the Customs Forfeiture Fund on September 30, 1992, and such amount shall be transferred to the Fund on October 1, 1992, or, if later, the date that is 15 days after the date of the enactment of this section [enacted Oct. 6, 1992]. Such amount shall be available for any expenses or activities authorized under this section. At the end of fiscal year 1993, and at the end of each fiscal year thereafter, the Secretary shall reserve in the Fund an amount not to exceed \$ 50,000,000 of the unobligated balances in the Fund, or, if the Secretary determines that a greater amount is necessary for asset specific expenses, an amount equal to not more than 10 percent of the total obligations from the Fund in the preceding fiscal year.

(4) (A) (i) After reserving any amount authorized by paragraph (3)(C), any unobligated balances remaining in the Fund on September 30, 1993, shall be deposited into the general fund of the Treasury of the United States.

(ii) Beginning in fiscal year 1994, and each fiscal year thereafter, the Secretary shall transfer to the Attorney General an amount agreed upon by the Secretary and the Attorney General (taking into account any amount transferred by the Secretary pursuant to paragraph (3)(A)). The amount transferred under this clause shall reflect the Department of the Treasury's pro rata share of the amount required to be transferred by the Attorney General pursuant to section 524(c)(9)(B) of title 28.

(B) After reserving any amount authorized by paragraph (3)(C) and after transferring any amount authorized by paragraph (3)(A), any unobligated balances remaining in the Fund on September 30, 1994, and on September 30 of each fiscal year thereafter, shall, subject to subparagraph (C), be available to the Secretary, without fiscal year limitation, for transfers pursuant to subparagraph (A)(ii) and for obligation or expenditure in connection with the law enforcement activities of any Federal agency or of a Department of the Treasury law enforcement organization.

(C) Any obligation or expenditure in excess of \$ 500,000 with respect to an unobligated balance described in subparagraph (B) may not be made by the Secretary unless the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of such obligation or expenditure.

(h) Retention or transfer of property.

(1) The Secretary may, with respect to any property forfeited under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986 enforced or administered by the Department of the Treasury—

(A) retain any of the property for official use; or

(B) transfer any of the property to—

(i) any other Federal agency, or

(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.

(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(A) is one with which the Secretary of State has agreed;

(B) is authorized in an international agreement between the United States and the foreign country; and

(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.

(3) Nothing in this section shall affect the authority of the Secretary under section 981 of title 18 or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

(i) Regulations. The Secretary may prescribe such rules and regulations as may be necessary to carry out this section.

(j) Customs Forfeiture Fund. Notwithstanding any other provision of law—

(1) during any period when forfeited currency and proceeds from forfeitures under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986 enforced or administered by the Department of the Treasury or the United States Coast Guard, are required to be deposited in the Fund pursuant to this section—

(A) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall instead be deposited in the Fund; and

(B) no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

(2) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the effective date of the Treasury Forfeiture Act of 1992, shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

(k) Limitation of liability. The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.

(l) Authority to warrant title. Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department of the Treasury, the Secretary

is authorized, at the Secretary's discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

(m) Forfeited property. For purposes of this section and notwithstanding section 524(c)(11) of title 28 or any other law—

(1) during fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by the United States Customs Service if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of the United States Customs Service or the property was maintained by the United States Customs Service; or

(B) a civil administrative forfeiture proceeding conducted by the United States Customs Service; and (2) after fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization if it is forfeited pursuant to—

(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Department of the Treasury law enforcement organization or the property was maintained by a Department of the Treasury law enforcement organization; or

(B) a civil administrative forfeiture proceeding conducted by a Department of the Treasury law enforcement organization.

(n) Transfers to Attorney General and Postmaster General.

(1) The Secretary shall transfer from the Fund to the Attorney General for deposit in the Department of Justice Assets Forfeiture Fund amounts appropriate to reflect the degree of participation of participating Federal agencies in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization. For purposes of the preceding sentence, a "participating Federal agency" is an agency that participates in the Department of Justice Assets Forfeiture Fund.

(2) The Secretary shall transfer from the Fund to the Postmaster General for deposit in the Postal Service Fund amounts appropriate to reflect the degree of participation of the United States Postal Service in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization.

(o) Bureau of Alcohol, Tobacco and Firearms.

(1) Except as provided in paragraph (2) and section 5872(b) of the Internal Revenue Code of 1986, the provisions of law relating to—

(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of Customs laws,

(B) the remission or mitigation of such forfeiture, and

(C) the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms.

(2) For purposes of paragraph (1), duties that are imposed upon a Customs officer or any other person with respect to the seizure and forfeiture of property under the Customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Secretary.

(p) Definitions. For purposes of this section—

(1) Department of the treasury law enforcement organization. The term "Department of the Treasury law enforcement organization" means the United States Customs Service, the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

(2) Secretary. The term "Secretary" means the Secretary of the Treasury.



## IV. MONEY LAUNDERING RELATED STATUTES

### A. Annunzio-Wylie Anti-Money Laundering Act

Title XV of Public Law 102-550 [H.R. 5334], 106 Stat. 4044 (12 U.S.C. 1811), approved October 28, 1992

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The Annunzio-Wylie Anti-Money Laundering Act amends a number of acts by adding new provisions relating to money laundering. Included below are substantive provisions as subsequently amended together with references to technical and conforming amendments effected by Annunzio-Wylie.

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AN ACT To amend and extend certain laws relating to housing and community development, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the 'Housing and Community Development Act of 1992'.

(b) Table of Contents.—

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#### TITLE XV—ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT

Sec. 1500. Short title.

##### SUBTITLE A—TERMINATION OF CHARTERS, INSURANCE, AND OFFICES

Sec. 1501. Authority to appoint conservator for depository institutions convicted of money laundering.

Sec. 1502. Revoking charter of Federal depository institutions convicted of money laundering or cash transaction reporting offenses.

Sec. 1503. Terminating insurance of State depository institutions convicted of money laundering or cash transaction reporting offenses.

Sec. 1504. Removing parties involved in currency reporting violations.

Sec. 1505. Unauthorized participation.

Sec. 1506. Access by State financial institution supervisors to currency transactions reports.

Sec. 1507. Restricting State branches and agencies of foreign banks convicted of money laundering offenses.

##### SUBTITLE B—NONBANK FINANCIAL INSTITUTIONS AND GENERAL PROVISIONS

Sec. 1511. Identification of financial institutions.

Sec. 1512. Prohibition of illegal money transmitting businesses.

Sec. 1513. Compliance procedures.

Sec. 1514. Nondisclosure of orders.

Sec. 1515. Provisions relating to recordkeeping with respect to certain funds transfers.

Sec. 1516. Use of certain records.

- Sec. 1517. Suspicious transactions and financial institution anti-money laundering programs.
- Sec. 1518. Anti-money laundering training team.
- Sec. 1519. International money laundering reports.

#### SUBTITLE C—MONEY LAUNDERING ENFORCEMENT IMPROVEMENTS

- Sec. 1521. Jurisdiction in civil forfeiture cases.
- Sec. 1522. Civil forfeiture of fungible property.
- Sec. 1523. Procedure for subpoenaing bank records.
- Sec. 1524. Deletion of redundant and inadvertently limiting provision in 18 U.S.C. 1956.
- Sec. 1525. Structuring transactions to evade CMIR requirement.
- Sec. 1526. Clarification of definition of financial institution.
- Sec. 1527. Definition of financial transaction.
- Sec. 1528. Obstructing a money laundering investigation.
- Sec. 1529. Awards in money laundering cases.
- Sec. 1530. Penalty for money laundering conspiracies.
- Sec. 1531. Technical and conforming amendments to money laundering provision.
- Sec. 1532. Preclusion of notice to possible suspects of existence of a grand jury subpoena for bank records in money laundering and controlled substance investigations.
- Sec. 1533. Elimination of restriction on disposal of forfeited property by the Department of the Treasury and the Postal Service.
- Sec. 1534. New money laundering predicate offenses.
- Sec. 1535. Amendments to the Bank Secrecy Act.
- Sec. 1536. Expansion of money laundering law to cover proceeds of certain foreign crimes.

#### SUBTITLE D—REPORTS AND MISCELLANEOUS

- Sec. 1541. Study and report on reimbursing financial institutions and others for providing financial records.
- Sec. 1542. Reports of information regarding safety and soundness of depository institutions.
- Sec. 1543. Immunity.
- Sec. 1544. Interagency information sharing.

#### SUBTITLE E—COUNTERFEIT DETERRENCE

- Sec. 1551. Short title.
- Sec. 1552. Increase in penalties.
- Sec. 1553. Deterrents to counterfeiting.
- Sec. 1554. Reproductions of currency.

#### SUBTITLE F—MISCELLANEOUS PROVISIONS

- Sec. 1561. Civil money penalties.
- Sec. 1562. Authority to order depository institutions to obtain copies of CTRS from customers which are unregulated businesses.
- Sec. 1563. Whistleblower protection for employees of financial institutions other than depository institutions.
- Sec. 1564. Advisory group on reporting requirements.
- Sec. 1565. GAO feasibility study of the financial crimes enforcement network.

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### TITLE XV—ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT

#### SEC. 1500. SHORT TITLE.

This title may be cited as the "Annunzio-Wylie Anti-Money Laundering Act".

**SUBTITLE A—TERMINATION OF CHARTERS, INSURANCE,  
AND OFFICES**

**SEC. 1501. AUTHORITY TO APPOINT CONSERVATOR FOR DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING.**

(a) **INSURED DEPOSITORY INSTITUTIONS.**—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by adding at the end the following new subparagraph:

“(M) **MONEY LAUNDERING OFFENSE.**—The Attorney General notifies the appropriate Federal banking agency or the Corporation in writing that the insured depository institution has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.”

(b) **INSURED CREDIT UNIONS.**—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

“(C) the Attorney General notifies the Board in writing that an insured credit union has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code;”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on December 20, 1992.

**SEC. 1502. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.**

(a) **NATIONAL BANKS.**—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

“(c) **FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.**—

“(1) **IN GENERAL.**—

“(A) **CONVICTION OF TITLE 18 OFFENSES.**—

“(i) **DUTY TO NOTIFY.**—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

“(ii) **NOTICE OF TERMINATION; PRETERMINATION HEARING.**—After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

“(B) **CONVICTION OF TITLE 31 OFFENSES.**—If a national bank, a Federal branch, or a Federal agency is convicted

of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the national bank, Federal branch, or Federal agency knew of, or were involved in, the commission of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank, Federal branch, or Federal agency which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the national bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

"(D) The extent to which the national bank, Federal branch, or Federal agency has implemented additional internal controls (since the commission of the offense of which the bank, Federal branch, or Federal agency was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term "senior executive officer" has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act."

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

“(A) CONVICTION OF TITLE 18 OFFENSE.—

“(I) DUTY TO NOTIFY.—If a Federal savings association has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

“(II) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director shall issue to the savings association a notice of the Director’s intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

“(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director may issue to the savings association a notice of the Director’s intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

“(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

“(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Director shall take into account the following factors:

“(A) The extent to which directors or senior executive officers of the savings association knew of, were involved in, the commission of the money laundering offense of which the association was found guilty.

“(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

“(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

“(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

“(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

“(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not

for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term "senior executive officer" has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act."

(c) Federal Credit Unions.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

**"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.**

**"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—**

**"(1) CONVICTION OF TITLE 18 OFFENSES.—**

**"(A) DUTY TO NOTIFY.—**If a credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

**"(B) NOTICE OF TERMINATION; PRETERMINATION HEARING.—**After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

**"(2) CONVICTION OF TITLE 31 OFFENSES.—**If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

**"(3) JUDICIAL REVIEW.—**Section 206(j) shall apply to any proceeding under this section.

**"(b) FACTORS TO BE CONSIDERED.—**In determining whether a franchise shall be forfeited under subsection (a), the Board shall take into account the following factors:

**"(1) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.**

**"(2) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.**

**"(3) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.**

**"(4) The extent to which the credit union has implemented additional internal controls (since the commission of the of-**

fense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(5) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(c) SUCCESSION LIABILITY.—This section shall not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section."

**SEC. 1503. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.**

(a) State Banks and Savings Associations.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(w) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State depository institution has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution is convicted of any criminal offense under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the depository institution knew of, or were involved in, the commission of the money laundering offense of which the institution was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the depository institution which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the depository institution has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the institution was found guilty.

"(D) The extent to which the depository institution has implemented additional internal controls (since the commission of the offense of which the depository institution was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with subsection (a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—The term "senior executive officer" has the same meaning as in regulations prescribed under section 32(f) of this Act."

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (w)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:



"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION.—After written notification from the Attorney General to the Board of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall take into account the following factors:

"(A) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(D) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) Notice to state credit union supervisor and public.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.— Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection."

#### SEC. 1504. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

##### (a) FDIC-INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

##### "(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the appropriate Federal banking agency determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, and such violation was not inadvertent or unintentional;

"(ii) an officer or director of an insured depository institution has knowledge that an institution-affiliated party of the insured depository institution has violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(iii) an officer or director of an insured depository institution has committed any violation of the Depository Institution Management Interlocks Act, the agency may serve upon such party, officer, or director a written notice of the agency's intention to remove such party from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the agency shall consider whether the officer or director took appro-

appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph."

(2) CERTAIN FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the depository institution.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the agency.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the appropriate Federal banking agency shall issue and serve upon

such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

**"(D) PROVISIONS APPLICABLE TO ORDER.—**

**"(i) COPY.—**A copy of any order under subparagraph (C) shall also be served upon the depository institution, whereupon the institution-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such depository institution.

**"(ii) EFFECT OF ACQUITTAL.—**A finding of not guilty or other disposition of the charge shall not preclude the agency from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section.

**"(iii) EFFECTIVE PERIOD.—**Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency."

**(b) CREDIT UNIONS.—**

**(1) VIOLATION OF REPORTING REQUIREMENTS.—**Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

**"(2) SPECIFIC VIOLATIONS.—**

**"(A) IN GENERAL.—**Whenever the Board determines that—

**"(i)** an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

**"(ii)** an officer or director of an insured credit union has knowledge that an institution-affiliated party of the insured credit union has violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

**"(iii)** an officer or director of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act, the Board may serve upon such party, officer, or director a written notice of the Board's intention to remove such officer or director from office.

**"(B) FACTORS TO BE CONSIDERED.—**In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph."

(2) CERTAIN FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

“(1) SUSPENSION OR PROHIBITION AUTHORIZED.—

“(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

“(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

“(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

“(B) PROVISIONS APPLICABLE TO NOTICE.—

“(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the credit union.

“(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Board.

“(C) REMOVAL OR PROHIBITION.—

“(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

“(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

“(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Board from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board."

(c) ATTORNEY GENERAL NOTICE REQUIREMENT.—Section 1956 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.—If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957 or 1960 of this title, or section 5322 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution."

(d) TECHNICAL CORRECTIONS TO PROVISIONS RELATING TO MONEY LAUNDERING ENFORCEMENT ACTIVITIES.—

(1) Section 5318(a)(1) of title 31, United States Code, is amended—

(A) by striking "or the Postal Inspection Service"; and

(B) by inserting "United States" before "Postal Service".

(2) Section 5322(a) of title 31, United States Code, is amended by striking "imprisonment" and inserting "imprisoned for".

#### SEC. 1505. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

#### SEC. 1506. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes."

#### SEC. 1507. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by inserting after subsection (h) the following new subsection:

"(i) Proceedings Related to Conviction for Money Laundering Offenses.—

"(1) NOTICE OF INTENTION TO ISSUE ORDER.—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary;

"(B) any State agency;

"(C) any State branch which is not an insured branch;

or

"(D) any State commercial lending subsidiary, has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (e).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) INSURED BRANCH.—The term "insured branch" has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) MONEY LAUNDERING OFFENSE DEFINED.—The term "money laundering offense" means any criminal offense under section 1956 or 1957 of title 18, United States Code, or under section 5322 of title 31, United States Code."

## SUBTITLE B—NONBANK FINANCIAL INSTITUTIONS AND GENERAL PROVISIONS

### SEC. 1511. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following new section:

#### "Sec. 5327. Identification of financial institutions

"(a) REGULATIONS REQUIRED.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to identify any customer (of the depository institution) which—

"(1) is a financial institution described in—

"(A) any subparagraph of section 5312(a)(2) other than subparagraphs (A) through (G); or

"(B) any regulation under any such subparagraph; and

"(2) has any account with the depository institution.

"(b) REPORTS REQUIRED.—Each depository institution shall report the names of and other information about financial institution customers required to be identified under subsection (a) to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation.

"(c) REPORTING OFFENSES.—No person shall cause or attempt to cause any depository institution to fail to file a report required by this section or to file a report containing a material omission or misstatement of fact.

"(d) AVAILABILITY OF REPORTS.—The Secretary shall provide reports filed under subsection (b) to appropriate State financial institution supervisory agencies for supervisory purposes.

**"(e) DEPOSITORY INSTITUTION DEFINED.**—For purposes of this section, the term "depository institution" means any financial institution described in subparagraph (A), (B), (C), (D), (E), or (F) of section 5312(a)(2)."

**(b) TECHNICAL AND CONFORMING AMENDMENT.**—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

**"(7) FINANCIAL INSTITUTION IDENTIFICATION VIOLATIONS.**—

**"(A) PENALTY AUTHORIZED.**—The Secretary may impose a civil money penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

**"(B) MAXIMUM AMOUNT LIMITATION.**—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed \$10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected."

**"(c) CLERICAL AMENDMENT.**—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5326 the following new item:

**"5327. Identification of financial institutions."**

**(d) EFFECTIVE DATE OF REGULATIONS.**—The initial final regulations prescribed pursuant to section 5327 of title 31, United States Code (as added by subsection (a) of this section) shall take effect before January 1, 1994.

**SEC. 1512. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.**

**(a) IN GENERAL.**—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

**"Sec. 1960. Prohibition of illegal money transmitting businesses**

**"(a)** Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

**"(b)** As used in this section—

**"(1)** the term "illegal money transmitting business" means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

**"(A)** without the appropriate money transmitting State license; and

**"(B)** where such operation is punishable as a misdemeanor or a felony under State law;

**"(2)** the term "money transmitting" includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

**"(3)** the term "State" means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States."



(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses."

(c) **CRIMINAL FORFEITURE.**—Section 982(a)(1) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

#### **SEC. 1513. COMPLIANCE PROCEDURES.**

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laundering" before the semicolon.

#### **SEC. 1514. NONDISCLOSURE OF ORDERS.**

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) **NONDISCLOSURE OF ORDERS.**—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary."

#### **SEC. 1515. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN FUNDS TRANSFERS.**

(a) **RECORDKEEPING REGULATIONS REQUIRED.**—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b) Recordkeeping Regulations.—

"(1) **IN GENERAL.**—Where"; and

(2) by adding at the end the following new paragraphs:

"(2) **DOMESTIC FUNDS TRANSFERS.**—Whenever the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the "Board") determine that the maintenance of records, by insured depository institutions, of payment orders which direct transfers of funds over wholesale funds transfer systems has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, the Secretary and the Board shall jointly prescribe regulations to carry out the purposes of this section with respect to the maintenance of such records.

"(3) **INTERNATIONAL FUNDS TRANSFERS.**—

"(A) **IN GENERAL.**—The Secretary and the Board shall jointly prescribe, after consultation with State banking supervisors, final regulations requiring that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instru-

ments, that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

**"(B) FACTORS FOR CONSIDERATION.**—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

**"(C) AVAILABILITY OF RECORDS.**—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary or the Board upon request."

**(b) TECHNICAL AND CONFORMING AMENDMENTS.**—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in subsection (c), by striking "Each insured" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), each insured";

(2) in subsection (e), by striking "Whenever any" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), whenever any"; and

(3) in subsection (f), by striking "In addition to" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b) and in addition to".

**(c) EFFECTIVE DATE OF REGULATIONS.**—The initial final regulations prescribed pursuant to section 21(b)(3) of the Federal Deposit Insurance Act (as added by subsection (a)(2) of this section) shall take effect before January 1, 1994.

#### **SEC. 1516. USE OF CERTAIN RECORDS.**

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

#### **SEC. 1517. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.**

**(a) REPORTING REQUIREMENT.**—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or regulations prescribed under such section 5325" after "section 5313(a)" each place such term appears.

**(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.**—Section 5314 of title 31, United States Code, is amended by adding at the end the following new subsections:

**"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—**

**"(1) IN GENERAL.—**The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

**"(2) NOTIFICATION PROHIBITED.—**A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

**"(3) LIABILITY FOR DISCLOSURES.—**Any financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

**"(h) ANTI-MONEY LAUNDERING PROGRAMS.—**

**"(1) IN GENERAL.—**In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum

**"(A)** the development of internal policies, procedures, and controls,

**"(B)** the designation of a compliance officer,

**"(C)** an ongoing employee training program, and

**"(D)** an independent audit function to test programs.

**"(2) REGULATIONS.—**The Secretary may prescribe minimum standards for programs established under paragraph (1)."

**SEC. 1518. ANTI-MONEY LAUNDERING TRAINING TEAM.**

The Secretary of the Treasury and the Attorney General shall jointly establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

**SEC. 1519. INTERNATIONAL MONEY LAUNDERING REPORTS.**

**(a) UNITED STATES OBJECTIVES.—**Section 481(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

**"(E)** the objective of the United States in dealing with the problem of international money laundering should be to ensure that countries adopt comprehensive domestic measures against money laundering and cooperative with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions; and"

(b) ANNUAL REPORTS.—Section 481(e) of that Act (22 U.S.C. 2291(e)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following new paragraph (7):

“(7)(A) Each report pursuant to this subsection shall include a report on major money laundering countries. This report shall specify—

“(i) which countries are major money laundering countries;

“(ii) which countries identified pursuant to clause (i) 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;

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

“(iv) which countries identified pursuant to clause (iii)—

“(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; and

“(v) which countries identified pursuant to clause (i)—

“(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,

“(B) In addition, for each major money laundering country, the report shall include findings on the 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 ap-

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.

"(C) The report shall also include information on multilateral and bilateral strategies 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.

"(D) 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.

"(E) As used in this paragraph, 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."

(c) DEFINITION OF MAJOR DRUG-TRANSIT COUNTRY.—Section 481(i)(5) of that Act (22 U.S.C. 2291(i)(5)) is amended—

(1) by inserting "or" at the end of subparagraph (A);

(2) by striking out "or" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (C).

### SUBTITLE C—MONEY LAUNDERING ENFORCEMENT IMPROVEMENTS

#### SEC. 1521. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.

"(d) Any court with jurisdiction over a forfeiture action pursuant to subsection (b) may issue and cause to be served in any other district such process as may be required to bring before the court the property that is the subject of the forfeiture action."

#### **SEC. 1522. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.**

(a) **IN GENERAL.**—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

##### **"Sec. 984. Civil forfeiture of fungible property**

"(a) This section shall apply to any action for forfeiture brought by the Government in connection with any offense under section 1956, 1957, or 1960 of this title or section 5322 of title 31, United States Code.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property—

"(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

"(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

"(d)(1) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds held by a financial institution in an interbank account, unless the financial institution holding the account knowingly engaged in the offense.

"(2) As used in this section, the term "interbank account" means an account held by one financial institution at another financial institution primarily for the purpose of facilitating customer transactions."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

“984. Civil forfeiture of fungible property.”.

**SEC. 1523. PROCEDURE FOR SUBPOENAING BANK RECORDS.**

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

**“Sec. 986. Subpoenas for bank records**

“(a) At any time after the commencement of any action for forfeiture in rem brought by the United States under section 1956, 1957, or 1960 of this title, section 5322 of title 31, United States Code, or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

“(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

“(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

“986. Subpoenas for bank records.”.

**SEC. 1524. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking “section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),”; and

(2) by striking “section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)” and inserting “section 422 of the Controlled Substances Act”.

**SEC. 1525. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.**

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting “(a) Domestic Coin and Currency Transactions.—” before “No person”; and

(2) by adding at the end the following:

"(b) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments."

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government."

#### SEC. 1526. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

#### SEC. 1527. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".



**SEC. 1528. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.**

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

**SEC. 1529. AWARDS IN MONEY LAUNDERING CASES.**

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986" after "criminal drug laws of the United States".

**SEC. 1530. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.**

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy."

**SEC. 1531. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.**

(a) **TRANSPORTATION.**—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer."

(b) **TECHNICAL CORRECTION.**—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

**SEC. 1532. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.**

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of the Internal Revenue Code of 1986".

**SEC. 1533. ELIMINATION OF RESTRICTION ON DISPOSAL OF FORFEITED PROPERTY BY THE DEPARTMENT OF THE TREASURY AND THE POSTAL SERVICE.**

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited."

**SEC. 1534. NEW MONEY LAUNDERING PREDICATE OFFENSES.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended

- (1) by striking "or" before "section 16";
- (2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and
- (3) by inserting before the semicolon; ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than \$5,000, or any felony violation of the Foreign Corrupt Practices Act".

**SEC. 1535. AMENDMENTS TO THE BANK SECRECY ACT.**

(a) **TITLE 31.**—Title 31, United States Code, is amended—

(1) in section 5324, by inserting “, section 5325, or the regulations issued thereunder” after “section 5313(a)” each place such term appears; and

(2) in section 5321(a)(5)(A), by inserting “or any person willfully causing” after “willfully violates”.

(b) **FEDERAL DEPOSIT INSURANCE ACT.**—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting “, or any person who willfully causes such a violation,” after “gross negligence violates”.

(c) **RECORDKEEPING.**—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting “or any person willfully causing a violation of the regulation,” after “applies,”; and

(2) in section 127, by inserting “, or willfully causes a violation of” after “Whoever willfully violates”.

**SEC. 1536. EXPANSION OF MONEY LAUNDERING LAW TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.**

Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) by striking “involving the manufacture” and inserting the following: “involving—

“(i) the manufacture”; and

(2) by adding at the end the following:

“(ii) kidnaping, robbery, or extortion; or

“(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978;”.

**SUBTITLE D—REPORTS AND MISCELLANEOUS****SEC. 1541. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.**

(a) **STUDY REQUIRED.**—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act of 1978 by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act. The study shall also include analysis of the effect of allowing nondepositor licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) **REPORT.**—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

**SEC. 1542. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.**

(a) **REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.**—

(1) **IN GENERAL.**—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality

of the United States shall, unless otherwise prohibited by law, disclose to the appropriate Federal banking agency any information that the Attorney General, the Secretary of the Treasury, or such agency head believes raises significant concerns regarding the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall disclose to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury, shall disclose the intelligence information to the appropriate Federal banking agency.

(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS, SAFETY OF GOVERNMENT INVESTIGATORS, INFORMANTS, AND WITNESSES.—If the Attorney General, the Secretary of the Treasury or their respective designees determines that the disclosure of information pursuant to paragraph (1) may jeopardize a pending civil investigation or litigation, or a pending criminal investigation or prosecution, may result in serious bodily injury or death to Government employees, informants, witnesses or their respective families, or may disclose sensitive investigative techniques and methods, the Attorney General or the Secretary of the Treasury shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation, litigation, or prosecution, threatening serious bodily injury or death to Government employees, informants, or witnesses or their respective families, or disclosing sensitive investigation techniques and methods; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

**(b) PROCEDURES FOR RECEIPT OF DISCLOSURE REPORTS.—**

(1) **IN GENERAL.**—Within 90 days after the date of enactment of this Act, each appropriate Federal banking agency shall establish procedures for receipt of a disclosure report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information disclosed, including access control and information accountability.

(2) **PROCEDURES RELATED TO EACH DISCLOSURE REPORT.**—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that made the disclosure regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information disclosed.

(c) **EFFECT ON AGENCIES.**—This section does not impose an affirmative duty on the Attorney General, the Secretary of the Treasury, or the head of any agency or instrumentality of the United States to collect new or to review existing information.

(d) **DEFINITIONS.**—For purposes of this section, the terms “appropriate Federal banking agency” and “depository institution” have the same meanings as in section 8 of the Federal Deposit Insurance Act.

(e) **REPORT.**—The Attorney General and the Secretary of the Treasury shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the end of each calendar year on their utilization of the exceptions provided in subsection (a)(1)(B).

**SEC. 1543. IMMUNITY.**

Section 6001(1) of title 18, United States Code, is amended by inserting “the Board of Governors of the Federal Reserve System,” after “the Atomic Energy Commission,”.

**SEC. 1544. INTERAGENCY INFORMATION SHARING.**

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

“(t) **AGENCIES MAY SHARE INFORMATION WITHOUT WAIVING PRIVILEGE.**—

“(1) **IN GENERAL.**—A covered agency shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by—

“(A) any other covered agency, in any capacity; or

“(B) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).

“(2) **DEFINITIONS.**—For purposes of this subsection:

“(A) **COVERED AGENCY.**—The term “covered agency” means any of the following:

“(i) Any appropriate Federal banking agency.

"(ii) The Resolution Trust Corporation.

"(iii) The Farm Credit Administration.

"(iv) The Farm Credit System Insurance Corporation.

"(v) The National Credit Union Administration.

"(B) PRIVILEGE.—The term "privilege" includes any work-product, attorney-client, or other privilege recognized under Federal or State law.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information."

## SUBTITLE E—COUNTERFEIT DETERRENCE

### SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "Counterfeit Deterrence Act of 1992".

### SEC. 1552. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first time it appears;

(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

"Is guilty of a class C felony."; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the terms "plate", "stone", "thing", or "other thing" includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted."

### SEC. 1553. DETERRENTS TO COUNTERFEITING.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"Sec. 474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation

or security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(c) As used in this section—

"(1) the term "distinctive paper" includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

"(2) the term "distinctive counterfeit deterrent" includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States."

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities."

#### SEC. 1554. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1)—

(A) by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums."; and

(B) by adding at the end the following new sentence:

"The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes."

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising,".

#### SUBTITLE F—MISCELLANEOUS PROVISIONS

#### SEC. 1561. CIVIL MONEY PENALTIES.

(a) IN GENERAL.—Section 5321(a)(6) of title 31, United States Code, is amended to read as follows:

**"(6) NEGLIGENCE.—**

**"(A) IN GENERAL.—**The Secretary of the Treasury may impose a civil money penalty of not more than \$500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

**"(B) PATTERN OF NEGLIGENT ACTIVITY.—**If any financial institution engages in a pattern of negligent violations of any provision of this subchapter or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than \$50,000 on the financial institution."

**(b) EFFECTIVE DATE.—**The amendment made by subsection (a) shall apply with respect to violations committed after the date of the enactment of this Act.

**SEC. 1562. AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN COPIES OF CTRS FROM CUSTOMERS WHICH ARE UNREGULATED BUSINESSES.**

Section 5326 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection:

**"(b) AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN REPORTS FROM CUSTOMERS.—**

**"(1) IN GENERAL.—**The Secretary of the Treasury may, by regulation or order, require any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

**"(A)** to request any financial institution (other than a depository institution) which engages in any reportable transaction with the depository institution to provide the depository institution with a copy of any report filed by the financial institution under this subtitle with respect to any prior transaction (between such financial institution and any other person) which involved any portion of the coins or currency (or monetary instruments) which are involved in the reportable transaction with the depository institution; and

**"(B)** if no copy of any report described in subparagraph (A) is received by the depository institution in connection with any reportable transaction to which such subparagraph applies, to submit (in addition to any report required under this subtitle with respect to the reportable transaction) a written notice to the Secretary that the financial institution failed to provide any copy of such report.

**"(2) Reportable transaction defined.—**For purposes of this subsection, the term "reportable transaction" means any transaction involving coins or currency (or such other monetary instruments as the Secretary may describe in the regulation or order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe."

**SEC. 1563. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF FINANCIAL INSTITUTIONS OTHER THAN DEPOSITORY INSTITUTIONS.**

(a) **IN GENERAL.**—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5327 (as added by section 1511(a) of this title) the following new section:

"Sec. 5328. Whistleblower protections

"(a) **PROHIBITION AGAINST DISCRIMINATION.**—No financial institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary of the Treasury, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this subchapter or section 1956, 1957, or 1960 of title 18, or any regulation under any such provision, by the financial institution or any director, officer, or employee of the financial institution.

"(b) **ENFORCEMENT.**—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(c) **REMEDIES.**—If the district court determines that a violation has occurred, the court may order the financial institution which committed the violation to—

"(1) reinstate the employee to the employee's former position;

"(2) pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) **LIMITATION.**—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.

"(e) **COORDINATION WITH OTHER PROVISIONS OF LAW.**—This section shall not apply with respect to any financial institution which is subject to section 33 of the Federal Deposit Insurance Act, section 213 of the Federal Credit Union Act, or section 21A(q) of the Home Owners' Loan Act (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991)."

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5327 (as added by section 1511(c) of this Act) the following new item:

"5328. Whistleblower protections."

**SEC. 1564. ADVISORY GROUP ON REPORTING REQUIREMENTS.**

(a) **ESTABLISHMENT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and other interested persons and financial institutions subject of the reporting require-



ments of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986.

(b) **PURPOSES.**—The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

(c) **INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a).

**SEC. 1565. GAO FEASIBILITY STUDY OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.**

(a) **STUDY REQUIRED.**—The Comptroller General of the United States shall conduct a feasibility study of the Financial Crimes Enforcement Network (popularly referred to as “Fincen”) established by the Secretary of the Treasury in cooperation with other agencies and departments of the United States and appropriate Federal banking agencies.

(b) **SPECIFIC REQUIREMENTS.**—In conducting the study required under subsection (a), the Comptroller general shall examine and evaluate—

(1) the extent to which Federal, State, and local governmental and nongovernmental organizations are voluntarily providing information which is necessary for the system to be useful for law enforcement purposes;

(2) the extent to which the operational guidelines established for the system provide for the coordinated and efficient entry of information into, and withdrawal of information from, the system;

(3) the extent to which the operating procedures established for the system provide appropriate standards or guidelines for determining—

(A) who is to be given access to the information in the system;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the system; and

(4) the extent to which the operating procedures established for the system provide for the prompt verification of the accuracy and completeness of information entered into the system and the prompt deletion or correction of inaccurate or incomplete information.

(c) REPORT TO CONGRESS.—Before the end of the 1-year period, beginning on the date of the enactment of this Act, the Comptroller general of the United States shall submit a report to the congress containing the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a), together with such recommendations for legislative or administrative actions as the Comptroller General may determine to be appropriate.

## **B. The Crime Control Act of 1990**

TITLES I AND XIV OF P.L. 101-647, [S. 3266], 104 STAT. 4789, APPROVED  
NOVEMBER 29, 1990

AN ACT To control crime.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Crime Control Act of 1990'.

## **TITLE I—INTERNATIONAL MONEY LAUNDERING**

### **SEC. 101. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.**

Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

\* \* \* \* \*

**SEC. 103. CONFORMING AMENDMENT RELATING TO THE EQUITABLE TRANSFER OF FORFEITED PROPERTY TO A PARTICIPATING FOREIGN NATION.**

Section 981(i) of title 18, United States Code, is amended—

(1) by striking out the matter before paragraph (1);

(2) by realigning paragraphs (1) through (5) 2 ems to the left, so that the left margins of such paragraphs are flush;

(3) by striking out “(1) Notwithstanding” in paragraph (1) and all that follows through the end of the second sentence of that paragraph and inserting in lieu thereof the following:

“(i)(1) Whenever property is civilly or criminally forfeited under this chapter, the Attorney General or the Secretary of the Treasury, as the case may be, may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

“(A) has been agreed to by the Secretary of State;

“(B) is authorized in an international agreement between the United States and the foreign country; and

“(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.”;

(4) by inserting after “Attorney General” in the third and fifth sentences of paragraph (1) the following: “or the Secretary of the Treasury”; and

(5) by striking out the last sentence of paragraph (1).

**SEC. 104. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO “INSIDER” EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.**

Section 1113(1)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(1)(2)) is amended by inserting “or of section 1956 or 1957 of title 18, United States Code” after “any provision of subchapter II of chapter 53 of title 31, United States Code”.

**SEC. 105. CLARIFICATION OF DEFINITION OF “MONETARY INSTRUMENTS”.**

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

“(5) the term “monetary instruments” means (i) coin or currency of the United States or of any other country, travelers’ checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery.”.

**SEC. 106. MONEY LAUNDERING AMENDMENTS.**

Section 1956(c)(1) of title 18, United States Code, is amended by striking “State or Federal” and inserting “State, Federal, or foreign”.

**SEC. 107. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out “section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)” and inserting in lieu thereof “a felony violation of the Chemical Diversion

and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

**SEC. 108. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.**

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following:

"For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

\* \* \* \* \*

**TITLE XIV—MONEY LAUNDERING**

**SEC. 1401. CRIMINAL FORFEITURE IN CASES INVOLVING CMIR VIOLATIONS.**

Section 982(a) of title 18, United States Code, is amended by inserting ",5316" after "5313(a)".

**SEC. 1402. DEFINITION OF "FINANCIAL TRANSACTION".**

Section 1956(c)(4) of title 18, United States Code, is amended by—

(1) inserting "(A)" before "a transaction" the first place it appears and inserting "(B)" before "a transaction" the second place it appears; and

(2) inserting "(i)" before "involving" the second place it appears.

**SEC. 1403. MONEY LAUNDERING FORFEITURES.**

Section 982(b)(2) of title 18, United States Code, is amended by inserting the following before the period: "unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of \$100,000 or more in any twelve month period".

**SEC. 1404. ENVIRONMENTAL CRIMES AS MONEY LAUNDERING PREDICATES.**

(a) Section 1956(c)(7) of title 18, United States Code, is amended by—

(1) striking "or" before "(D)"; and

(2) inserting ";or" and the following before the period:

"ENVIRONMENTAL CRIMES

"(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.)".

(b) Section 1956(e) of title 18, United States code, is amended by adding at the end of the following sentence:

"Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.

## C. International Narcotics Control Act of 1988

Partial text of Public Law 100-690 [Anti-Drug Abuse Act of 1988, H.R. 5210],  
102 Stat. 4181 at 4261, approved November 18, 1988, as amended

AN ACT To prevent the manufacturing, distribution, and use of illegal drugs, and  
for other purposes.

*Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress assembled,*

\* \* \* \* \*

### TITLE IV—INTERNATIONAL NARCOTICS CONTROL

\* \* \* \* \*

#### Subtitle H—International Banking Matters

\* \* \* \* \*

#### SEC. 4702.<sup>1</sup> RESTRICTIONS ON LAUNDERING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress finds that international currency transactions, especially in United States currency, that involve the proceeds of narcotics trafficking fuel trade in narcotics in the United States and worldwide and consequently are a threat to the national security of the United States.

(b) PURPOSE.—The purpose of this section is to provide for international negotiations that would expand access to information on transactions involving large amounts of United States currency wherever those transactions occur worldwide.

(c) NEGOTIATIONS.—(1) The Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") shall enter into negotiations with the appropriate financial supervisory agencies and other officials of any foreign country the financial institutions of which do business in United States currency. Highest priority shall be attached to countries whose financial institutions the Secretary determines, in consultation with the Attorney General and the Director of National Drug Control Policy, may be engaging in currency transactions involving the proceeds of international narcotics trafficking, particularly United States currency derived from drug sales in the United States.

(2) The purposes of negotiations under this subsection are—

(A) to reach one or more international agreements to ensure that foreign banks and other financial institutions maintain adequate records of large United States currency transactions, and

(B) to establish a mechanism whereby such records may be made available to United States law enforcement officials.

<sup>1</sup>31 U.S.C. 5311 note.

In carrying out such negotiations, the Secretary should seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, and mutual legal assistance treaties.

(d) **REPORTS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit an interim report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on progress in the negotiations under subsection (c). Not later than 2 years after such enactment, the Secretary shall submit a final report to such Committees and the President on the outcome of those negotiations and shall identify, in consultation with the Attorney General and the Director of National Drug Control Policy, countries—

(1) with respect to which the Secretary determines there is evidence that the financial institutions in such countries are engaging in currency transactions involving the proceeds of international narcotics trafficking; and

(2) which have not reached agreement with United States authorities on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings.

(e) **AUTHORITY.**—If after receiving the advice of the Secretary and in any case at the time of receipt of the Secretary's report, the Secretary determines that a foreign country—

(1) has jurisdiction over financial institutions that are substantially engaging in currency transactions that effect the United States involving the proceeds of international narcotics trafficking;

(2) such country has not reached agreement on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings; and

(3) such country is not negotiating in good faith to reach such an agreement, the President shall impose appropriate penalties and sanctions, including temporarily or permanently—

(1) prohibiting such persons, institutions or other entities in such countries from participating in any United States dollar clearing or wire transfer system; and

(2) prohibiting such persons, institutions or entities in such countries from maintaining an account with any bank or other financial institution chartered under the laws of the United States or any State.

Any penalties or sanctions so imposed may be delayed or waived upon certification of the President to the Congress that it is in the national interest to do so. Financial institutions in such countries that maintain adequate records shall be exempt from such penalties and sanctions.

(f) **DEFINITIONS.**—For the purposes of this section—

(1) The term "United States currency" means Federal Reserve Notes and United States coins.

(2) The term "adequate records" means records of United States currency transactions in excess of \$10,000 including the



identification of the person initiating the transaction, the person's business or occupation, and the account or accounts affected by the transaction, or other records of comparable effect.

(g) SUNSET.—The authority given the President in subsection (e) shall expire on June 30, 1994.

\* \* \* \* \*

**V. PRECURSOR CHEMICALS RELATED STATUTES**  
**The Chemical Diversion and Trafficking Act of 1988**

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The Chemical Diversion and Trafficking act of 1988 included a series of amendments to the Controlled Substances Act and the Controlled Substances Import and Export Act, and have been incorporated into the text of those laws set out in Section III-A and III-B (pages 103 and 192, respectively). The subject matter of the amendments made by the 1988 Act, the section of title 21 of the U.S. Code they amended, and the page in this volume where they can be found are as follows:

Regulation of Listed Chemicals and Certain Machines .....	21 USC 830, p. 139
Notification, Suspension of Ship- ment, and Penalties with Re- spect to Importation and Ex- portation of Listed Chemicals .....	21 USC 971, p. 206
Definitions .....	21 USC 802, p. 104
Subpoena Power .....	21 USC 876(a), p. 175
Forfeitures .....	21 USC 881, p. 179
Chemical Diversion Control Program .....	21 USC 872(f), p. 172

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## VI. EXECUTIVE BRANCH DOCUMENTS

### A. National Drug Control Strategy 1994: Reclaiming our Communities from Drugs and Violence

#### MESSAGE FROM THE PRESIDENT

#### TO THE CONGRESS OF THE UNITED STATES:

I am pleased to transmit today to the Congress and the American people the 1994 National Drug Control Strategy. This Strategy builds on the foundation set in the 1993 Interim National Drug Control Strategy, which was released in September 1993.

The Interim National Drug Control Strategy challenged this Nation to fundamentally change the way we respond to our drug problem. First, that Strategy changed the focus of drug policy by targeting chronic, hardcore drug users—the heaviest users who fuel the demand for drugs and put great strains on our society in the form of increased crime, health costs, and homelessness. Second, it called for renewed prevention efforts to educate the young about the dangers of illicit drug use. Third, the 1993 Interim Strategy challenged us to view the drug issue in the overall context of economic and domestic policy. Our drug policy must be tied to our efforts to strengthen families and communities, provide meaningful work opportunities, and restore the conditions of civilized life in America.

Under the leadership of Director Lee P. Brown, this new Strategy focuses on the most tenacious and damaging aspect of America's drug problem—chronic, hardcore drug use and the violence it spawns. This problem of chronic hardcore drug use will not be easily overcome. Past national drug control policies have failed to come to grips with the harsh realities of chronic, hardcore drug use, the underlying causes of addiction, and the human and societal harms hardcore drug use causes. To reverse this trend, the 1994 Drug Control Strategy proposes the largest increase in Federal support for the treatment of chronic or hardcore drug users. The Strategy proposes expanding treatment opportunities in communities around the country and—after Congress passes the Crime Bill—providing additional and substantial drug treatment and intervention services in the criminal justice system.

Treating hardcore users is more than compassionate and cost effective; it makes sense. The ability of drug treatment to reduce criminality is well documented, and treating heavy users saves America money over the long run. A recent study conducted by the National Institute on Drug Abuse found that every dollar spent on drug treatment saves \$7—\$4 in reduced costs to the public and \$3 in increased productivity. Clearly, treatment works.

The Strategy also will continue to strengthen our efforts to prevent all illicit drug use, including experimentation by the young and others at risk. My Administration stands ready to bolster its drug prevention efforts for in-school youth by committing new resources to ensure that we have safe and drug-free schools and by sending the strong no-use message required to help keep our younger citizens from being tempted by drugs in the first place. The most recent information on adolescent drug use shows what will happen if we are not vigilant in our prevention efforts. The declines achieved thus far in the casual or intermittent use of illegal drugs have taken place in part because drugs are legally prohibited. For this reason this Administration will never consider the legalization of illegal drugs.

We will continue with strengthened efforts by Federal law enforcement agencies—in concert with their State and local counterparts—to disrupt, dismantle, and destroy drug trafficking organizations. We also will increase our commitment to State and local law enforcement by helping them put more police on the streets and expand community policing. Police officers working in partnership with neighborhood residents to solve drug-related crime problems can have a tremendous impact, particularly on open-air drug markets in America.

The Strategy also challenges us to change the way we look at international drug control programs. International drug trafficking is a criminal activity that threatens democratic institutions, fuels terrorism and human rights abuses, and undermines economic development. Antidrug programs must be an integral part of our foreign policy when dealing with major source and transit countries, equal to the worldwide commitment that the United States devotes to the promotion of democracy, human rights, and economic advancement.

How we address the drug problem says much about us as a people. Drug use and its devastation extend beyond the user to endanger whole families and communities. Drug use puts our entire Nation at risk. Our response must be as encompassing as is the problem. We must prevent drug use by working to eliminate the availability of illicit drugs; treating those who fall prey to addiction; and preventing all our citizens, especially our children, from experimenting in the first place. This is the plan we offer to all Americans.

In the end, this is not a challenge for the government alone. We can change our laws and increase the amount of resources we spend to reduce drug use, but still we will have to do more. Individuals must take personal responsibility for their own actions. Families must take responsibility for their children. Communities must challenge their citizens to stand up for common decency and refuse to accept the unacceptable. Society must nurture the values that best represent our character as a nation: work, family, community, and opportunity and responsibility.

Bill Clinton

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## Executive Summary

The 1994 National Drug Control Strategy redirects and reinvigorates this Nation's fight against drug use and drug trafficking. It builds on the foundation laid down in the 1993 Interim National Drug Control Strategy, which challenged this Nation to change the way it viewed the drug use problem. The Interim Strategy highlighted four focal points for a new national antidrug plan:

- Chronic hardcore drug use and the violence that surrounds it, which are at the heart of the Nation's current drug crisis.
- Prevention efforts to educate the young on the dangers of illicit drug use.
- The need to empower local communities with an integrated plan of education, prevention, treatment, and law enforcement.
- Changes in how the United States carries out international drug control policy to refocus interdiction's emphasis from the transit zones to the source countries.

### RESPONDING TO DRUG USE IN AMERICA TODAY

Five years have passed since the Anti-Drug Abuse Act of 1988 required the Federal Government to produce a comprehensive National Drug Control Strategy, detailing the resources committed to implement it and including measurable goals. Within that time period, the Federal Government has spent more than \$52 billion on drug-related efforts, and—while it has achieved some success—illegal drugs continue to pose a significant threat to the country: Hardcore drug use continues unabated, drug-related crime and violence have not dropped significantly, and recent studies indicate that our young are returning to drug use.

But much has been learned from our initial efforts, and now is the time to move the national drug policy debate forward. With an estimated 2.7 million hardcore users on the streets, and with Americans spending \$49 billion annually on illegal drugs, action must be taken. Accordingly, the 1994 National Drug Control Strategy establishes the following specific objective for hardcore drug use:

- Reduce the number of hardcore users through drug treatment at an average annual rate of 5 percent.

The 1994 Strategy establishes the following objective for casual or intermittent drug use:

- Reduce the number of casual or intermittent drug users at an average annual rate of 5 percent.

### TREATING AMERICA'S DRUG PROBLEM

Treating America's drug problem must start with an aggressive effort to break the cycle of hardcore drug use. Drug dependence is a chronic, relapsing disorder characterized by a craving for drugs that is difficult to extinguish once it has been established. But even the chronic or hardcore user can successfully travel the path to recovery, if that path is properly illuminated.

The 1994 National Drug Control Strategy proposes an increase of \$355 million to expand treatment opportunities for hardcore

users—the largest such effort to date. Providing treatment is both a compassionate and pragmatic course of action. According to the National Institute on Drug Abuse (NIDA), for every dollar spent on drug treatment saves \$7—\$4 in reduced costs to the public and \$3 in increased productivity.<sup>1</sup> Additionally, since drug-using offenders are responsible for a disproportionate amount of crime, and because the frequency and severity of their criminal activity rises dramatically during periods of heavy or addicted use, treating hardcore addicts will help reduce drug-related crime.

Accordingly, the 1994 Strategy proposes the following specific objectives:

- Beginning in Fiscal Year 1995, increase the number of hardcore drug users in treatment by almost 140,000 per year. This number includes hardcore drug users both within and outside the criminal justice system.
- Enact the first-ever guarantee of basic drug use treatment services as part of the President's Health Security Act. At a minimum, this will provide basic substance abuse treatment benefits to the more than 58 million Americans who have no coverage at all for some time each year.

#### PROTECTING AMERICA'S CHILDREN THROUGH EDUCATION AND PREVENTION

Educating the youth of this Nation is one of society's most important responsibilities, and nowhere is the need for education greater than to teach children about the dangers of drug use. While the field of prevention is still developing, there is national consensus for more and better prevention programs targeted to youth. Comprehensive, community-based drug prevention programs are effective in reducing the likelihood that young people will start using drugs, and these programs can lessen the chance that youth will become heavily involved with serious drug use.

Recent surveys of young people's attitudes and behavior about illegal drugs show that the long-term decline in drug use among youth may have ended. In addition, recent studies suggest that there is an alarming level of violence in our schools. To help redouble drug and violence prevention efforts in schools, the 1994 Strategy proposes an increase of \$191 million for Safe and Drug-Free Schools.

Increased funding is not enough. With two years of data suggesting that the prevention message may be getting stale, more needs to be done. Soon, the Department of Health and Human Services will release the National Structured Evaluation, the most exhaustive study to date of what is effective in substance abuse prevention programming. To build on this report and make necessary revisions in response to changing circumstances, the Office of National Drug Control Policy (ONDCP) will convene by mid-1994 a panel of scholars and experts in substance abuse prevention. This effort will ensure that prevention will have an increasingly important and visible role in the Nation's demand-reduction efforts.

The 1994 Strategy's specific objectives are as follows:

<sup>1</sup>See *How Drug Abuse Takes the Profit Out of Business*, National Institute on Drug Abuse, Department of Health and Human Services, 1991.



- Reverse the recent increase in the prevalence of illicit drug and tobacco use among students by 1996.

#### PROTECTING NEIGHBORHOODS THROUGH ENFORCEMENT AND COMMUNITY ACTION

Recognizing that demand reduction programs—including drug treatment, prevention, and education—cannot succeed if drugs are readily available and that drug law enforcement programs cannot ultimately succeed if the Nation's appetite for illegal drugs is not curbed, the 1994 Strategy rejects the false choice between demand reduction and law enforcement efforts.

To make streets safer, the Administration's first priority is to pass a tough and smart crime bill. As outlined by President Clinton in his State of the Union Address, the crime bill must authorize funds to put more police on the streets and to expand community policing; it must expand drug treatment for incarcerated hardcore drug users; it must boost the number of boot camps for nonviolent offenders; it must allow for drug courts to provide counseling, treatment, and drug testing for nonviolent drug offenders; and it must include reasonable gun controls, such as a ban on assault weapons.

Beyond new initiatives anticipated in the crime bill—and included in the President's budget—the 1994 Strategy commits the full force of Federal investigative and prosecutive tools to target major drug trafficking organizations so that they are disrupted, dismantled, and destroyed. The objective is to reduce illicit drug trafficking both in and directed at the United States through apprehension, prosecution, conviction, and forfeiture. The Administration will work toward making drugs harder to obtain and more costly for the traffickers and toward reducing the violence attendant with drug activity.

Specific law enforcement objectives include the following:

- Over the next 5 years, put 100,000 more police on the street to work with communities to reduce crime—a nationwide increase of 16 percent.
- Ban the manufacture, transfer, or possession of assault weapons.

The most effective strategies for preventing drug use and keeping drugs out of neighborhoods and schools are those that mobilize all elements of a community through coalitions or partnerships. Cooperative efforts, such as community coalitions, establish and sustain a strong partnership among businesses, schools, religious groups, social services organizations, law enforcement, the media, and community residents to help rid the neighborhood of drug and drug-associated violence. Similar cooperative efforts among Federal, State, and local authorities help local communities tackle drug-related violence. The 1994 Strategy will expand the number of cooperative efforts, such as community coalitions, by targeting neighborhoods hardest hit by drug use and related crime and violence.

Equally important, the Vice President's Community Empowerment Board—along with the Departments of Housing and Urban Development and Agriculture—will oversee implementation of the President's Empowerment Zones and Enterprise Communities Program. This program reflects a long-term commitment to

community-led efforts to revitalize our most distressed neighborhoods and provides a tremendous opportunity to help communities help themselves.

The Strategy's community empowerment objectives are the following:

- Work to ensure that all 9 Empowerment Zones and all 95 Enterprise Communities address drug use, trafficking, and prevention in their community-based empowerment plans over the next 2 years.
- Double the number of community anti-drug coalitions by 1996 with at least half networked into area-wide or Statewide consortia.

#### FOCUSING ON SOURCE COUNTRIES

The 1994 Drug Control Strategy also calls for changing the way international drug control programs are viewed. International drug trafficking is a criminal activity that threatens democratic institutions, fuels terrorism and human rights abuses, and undermines economic development. In major source and transit countries, therefore, counternarcotics programs must be an integral part of foreign policy and must be pursued with the same worldwide commitment that the United States devotes to the promotion of democracy, human rights, and economic advancement.

The new international strategy calls for a "controlled shift" in emphasis from the transit zones to the source countries. The term "controlled shift" is used here because it is anticipated that the shift could precipitate a further change in tactics by the drug cartels, which require drug control agencies to be prepared to respond to those changes as they occur.

The cocaine cartels and other drug trafficking organizations are vulnerable to sustained enforcement efforts by committed governments. Not only do they fear the loss of profit, they also fear arrest when they know it will lead to conviction followed by significant punishment and seizure of their assets. The ability of the United States to collect intelligence and build cases against major traffickers has improved considerably, and a major thrust of the international program will be to exploit this growing capability. Cooperation with other nations that share our political will to defeat the international drug syndicates is at the heart of our international Strategy. The Strategy's international objectives are the following:

- Strengthen host nation counternarcotics institutions so that they can conduct more effective drug control efforts on their own.
- Intensify international efforts to arrest and imprison international drug kingpins and destroy their organizations.
- Aggressively support crop control programs for poppy and coca in countries where there is a strong prospect for, or record of success.

#### PURSuing NEW IDEAS FOR DRUG CONTROL

ONDCP's Research, Data, and Evaluation Committee will have three objectives: (1) identify policies and priorities for drug control

research; (2) review and monitor all phases of drug-related data collection, research, and evaluation; and (3) foster and encourage drug-related research. The Committee will also promote better coordination among Federal agencies and identify research-related actions to be considered for future Strategies. The overall objective of the committee is:

- Improve and develop new methods for data collection and for improving the quality, timeliness, and policy relevance of existing data collection systems.

ONDCP and the Substance Abuse and Mental Health Services Administration are working together in an effort to verify the current estimate of the number and determine the location and characteristics of the hardcore drug user population.

ONDCP has also initiated, under the Counterdrug Technology Assessment Center (CTAC), a National Counterdrug Research and Development Program to access our national technology resources. It includes several initiatives focused on providing (1) advanced technology to the Federal, State, and local law enforcement communities; and (2) initiatives to assist both supply and demand reduction activities. Under one initiative, a prototype system is being developed to permit the integration of information from various criminal justice data bases, to improve information exchange, and to streamline law enforcement efforts. Work is also under way to develop and field nonintrusive inspection systems for use at border-crossing inspection points.

#### BUDGET HIGHLIGHTS

For FY 1995 the President has requested a record \$13.2 billion to enhance programs dedicated to drug control efforts. This represents an increase of \$1.0 billion, or 9 percent, more than the FY 1994 enacted level. Furthermore, \$7.8 billion (or 59 percent) of the total drug program budget is for supply reduction programs. The balance of \$5.4 billion or (41 percent) is for demand reduction programs.

The FY 1995 request provides additional resources in the following four major program areas:

1. Reducing Hardcore Drug Use Through Treatment. First and foremost, the Strategy makes the reduction of drug use by hardcore drug users its number-one priority. The total 1995 funding request for drug treatment programs is \$2.9 billion, an increase of \$360 million (14.3 percent). Of this increase, \$355 million is specifically targeted for programs to reduce hardcore drug use and includes the following elements:
  - \$310 million for the Health and Human Services (HHS) Substance Abuse Prevention and Treatment Block Grant;
  - \$35 million for a new treatment demonstration program at HHS for the hardcore drug-using population; and
  - \$10 million for the expansion of treatment services for American Indian and Alaska Native populations.

It is anticipated that these additional funds will provide treatment for up to an additional 74,000 hardcore drug users.<sup>2</sup> Furthermore, it is expected that the enactment of the Crime Bill will provide substantially more resources for treatment of prisoners—as many as 65,000 additional hardcore users in prisons. In total about 140,000 hardcore users will receive treatment in FY 1995.

2. **Ensuring Safe and Drug-Free Schools by Improving Prevention Efficacy.** To create safe and drug-free environments, the FY 1995 request includes \$660 million for school-based drug and violence prevention programs. This includes an increase of \$191 million over the FY 1994 levels. This increase is associated with two programs within the Department of Education: the Safe and Drug-Free Schools and Communities State Grant Program and the Safe Schools Program.

This initiative will ensure that children will be able to attend schools free of crime and violence and to acquire the tools they need to resist the temptation to use drugs. The FY 1995 request will allow more students to receive drug, violence, and alcohol prevention education. These new programs will allow schools to procure metal detectors and hire security personnel as part of a comprehensive response to school violence, as well as other crime and violence problems arising in the school and community.

3. **Empowering Communities To Combat Drug-Related Violence and Crime.** The FY 1995 request includes resources to empower communities to confront their drug problems directly. A total of \$1.0 billion is requested for community-based efforts. This includes \$568 million for the drug component of the community policing effort to provide more cops on the beat.

Further, for prevention and treatment efforts, \$50 million is also included in the FY 1995 request for the drug-related portion of the Community Empowerment Program, to be directed principally by the Department of Housing and Urban Development. This program will provide residential and nonresidential drug and alcohol prevention and treatment programs that offer comprehensive services for pregnant women as well as mothers and their children.

To ensure linkages of comprehensive, community-based services—especially prevention services at the local level—the FY 1995 budget requests \$115 million for the Community Partnership Program. This funding will aid in the organization of community efforts to build and implement comprehensive, antidrug community strategies.

Finally, in order to provide resources in the areas of heavy drug trafficking and use, the FY 1995 request for the ONDCP High Intensity Drug Trafficking Area Program (HIDTA) is set at \$98 million, an increase of \$12 million. This increase will permit the establishment of one additional HIDTA, bringing the total to six.

4. **Increased International Program Efforts.** The fourth major budget initiative supports supply reduction programs world-

<sup>2</sup>The 74,000 users targeted for treatment from the \$355 million initiative are those most likely to require extensive residential treatment and aftercare. This distinguishes them from those generally supported by the Substance Abuse Block Grant, who tend to receive treatment on a less costly outpatient basis. However, given the health and crime consequences associated with those most addicted, this initiative targets these users to reduce such consequences.

wide. The 1995 budget requests an increase of \$72 million for the Department of State and Agency for International Development to support source country efforts to reduce the availability of illicit drugs through activities such as training of law enforcement personnel, judicial reform, crop control, sustainable development, interdiction, and demand reduction efforts.

The 1995 request recognizes that drug policy must be an integral part of U.S. foreign policy and must be pursued on a broad front of institution building, dismantling of drug-related organizations, and source country and transit zone interdiction. In order to improve the national response to organized international drug trafficking, the budget emphasizes programs that support a controlled shift of resources from the transit zones to the source countries.

### I. RESPONDING TO DRUG USE IN AMERICA TODAY

Five years have passed since the Anti-Drug Abuse Act of 1988 required the Federal Government to produce a comprehensive National Drug Control Strategy, detailing the resources committed to implement it and including measurable goals. Within that time period, the Federal Government has spent more than \$52 billion on drug-related efforts, and—while it has achieved some success—illegal drugs continue to pose a significant threat to the country: Hardcore drug use continues unabated, drug-related crime and violence have not dropped significantly, and children are beginning to show signs of being more tolerant towards the use of some illegal drugs.

But much has been learned from our initial efforts, and now is the time to move the national drug policy debate forward. With an estimated 2.7 million hardcore users on the streets, and with Americans spending \$49 billion annually on illegal drugs, action must be taken.

The 1994 National Drug Control Strategy recognizes that drug dependency is a chronic, relapsing disorder and that drug users stand little chance of overcoming their problems without appropriate intervention and treatment. Drug users, especially hardcore users whose lives are controlled by drug dependence, face dismal futures.<sup>3</sup> In most cases, drug users need help to address the problems associated with their drug dependence: homelessness, isolation from family and friends, unemployment or underemployment, serious health problems such as HIV/AIDS (human immunodeficiency virus/acquired immune deficiency syndrome), and criminal activity.

With respect to the supply of drugs on the streets, law enforcement agencies (including at the international level) have achieved record seizures of illicit drugs; however, the available drug supply is still sufficient to satisfy the needs of the existing drug-using population. Further reductions in illicit drug availability are essential if demand reduction efforts, particularly against hardcore use, are to prove effective and not be overcome by a cheap and plentiful supply of illicit drugs.

<sup>3</sup> Hardcore drug users include individuals who use illicit drugs at least weekly and exhibit behavioral problems stemming from their drug use.

In recognizing the seriousness of hardcore drug use, the 1994 Strategy does not downplay the problems of intermittent or so-called casual drug use. Every addicted or dependent user started on his/her road to that addiction as an experimental or occasional user. This type of "casual" drug use is important (1) for the consequences it holds for both the individual and the society and (2) because it represents a focal point for drug control program efforts. Casual use has declined substantially over the past few years, and the Strategy continues with efforts to ensure that it does not revert to the levels experienced in the mid-1980's. The gains achieved thus far through prevention and education efforts must be maintained or the number of hardcore users will certainly increase.

It is important to note that the casual drug user differs in many ways from the hardcore user and can best be reached by prevention efforts and other strategies that take this difference into account—strategies that differ markedly from those that are effective for the hardcore user. Comparatively speaking, it is easier to change casual drug use patterns, since this category of user is generally deterred by reduced availability, positive peer pressure, increased understanding of the harms of drug use, and the credible threat of punishment. On the other hand, the hardcore user is more difficult to reach and more resistant to change.

Recognizing the changing nature of the drug-using population, the 1993 Interim National Drug Control Strategy provided a new direction for drug control policy. It brought to the forefront hardcore drug use and its concomitant problems while continuing to strengthen prevention efforts to prevent the reemergence of casual use. The Strategy stressed focused prevention efforts, especially efforts targeted at special populations, such as inner-city youth and pregnant women. It emphasized the need to empower local communities by providing more police on the streets, taking guns away from criminals, and ensuring swift and certain punishment to stem the drug-related violence that the drug trade fosters. It highlighted the Administration's intent to focus interdiction efforts on source and transit countries in order to stop the flow of drugs at or close to their source. Through this new direction, the National Strategy will ensure success in mitigating the problems of drug use, both to the individual drug user and to society.

#### THE COST OF NOT ACTING

The total economic cost of drug abuse to the Nation is astounding. One study, prepared by the Institute for Health Policy at Brandeis University for The Robert Wood Johnson Foundation, estimated the total economic cost of drug abuse at \$67 billion in 1990, up \$23 billion from \$44 billion in 1985.<sup>4</sup> Researchers at the University of Southern California (U.S.C.), using the same methodology, estimated the economic cost of drug abuse at \$76 billion in 1991, up more than \$30 billion from the \$44 billion estimated

<sup>4</sup>Rice, D.P. Unpublished data, Institute for Health and Aging, University of California at San Francisco, CA 94143-0612, n.d., cited in Substance Abuse: The Nation's Number One Health Problem, Key Indicators for Policy, prepared for the Robert Wood Johnson Foundation, Princeton, NJ, October 1993, p. 16.

for 1985.<sup>5</sup> The U.S.C. study estimates that drug abuse costs will reach \$150 billion by 1997 if current trends continue. The four primary contributors to the increase in economic costs from 1985 to 1991 were (1) emergency room and other medical costs, (2) increased incidence of HIV/AIDS, (3) increased criminal activity, and (4) lost productivity caused by drug use.

The \$76 billion in economic costs estimated by the U.S.C. Study includes the value of lost productivity from victims of crime who were unable to work, which is estimated to be \$1.3 billion. However, it is necessarily a conservative estimate, since it does not include costs such as lost productivity associated with an individual's own drug use.

Beyond the economic costs, research has established a clear relationship of drugs to crime and violence. Drug-using offenders are responsible for a disproportionate amount of crime, especially during periods of heavy use. During periods of heavy or addictive use, the frequency and severity of criminal activity rise dramatically. A survey of chronic drug users not in treatment during 1992 found that, during the 30 days prior to enrollment in the study, over 50 percent of both male and female drug users were involved in illegal activity.<sup>6</sup> In addition, 10 percent had income from illegal sources only, and 42 percent had income derived at least in part from illegal sources.

Drug-related criminal activity is one of the main reasons for the substantial growth of the prison and jail populations.<sup>7</sup> According to statistics compiled by the National Institute of Justice's Drug Use Forecasting Program, roughly one-half of the male and female arrestees who participated in the program in 1992 tested positive for cocaine. Clearly, reducing drug use will help reduce crime.<sup>8</sup>

One area where the consequences of drug use and trafficking are readily apparent is in the unprecedented rise in the number of homicides in this country (see Exhibit 1-1). Nationally, the number of homicides has risen steadily since the mid-1980's. Statistics on drug-related homicides are not currently available, but there is strong evidence of a significant link between homicides and the drug trade. One expert found that, of 414 homicides that occurred in New York City between March 1 and October 31, 1988, 53 percent were drug related.<sup>9</sup>

The health costs of drug use are enormous and likely will increase as chronic users seek medical attention for their drug-related problems. An Institute for Health and Aging study estimates the economic cost associated with medical services for drug users to be

<sup>5</sup>Parsons, C., and Kamenica, A. Economic Impact of Drug Abuse in America, Bernard and Ellen Simonsen Fellowship Project, Graduate School of Business, University of Southern California, 1992.

<sup>6</sup>Needle, R.H., et al. Drug Procurement Practices of the Out-of-Treatment Chronic Drug Abuser, National Institute on Drug Abuse for the Office of National Drug Control Policy, September 1993.

<sup>7</sup>According to the Bureau of Justice Statistics, 79 percent of State prison inmates surveyed in 1991 had used drugs (50 percent in the month before their offenses), and 31 percent were under the influence of drugs when they committed their offenses. Seventeen percent committed their offenses to get money to buy drugs. (Bureau of Justice Statistics. Survey of State Prison Inmates 1991, NCJ136949, March 1993.)

<sup>8</sup>National Institute of Justice. Drug Use Forecasting: 1992 Annual Report—Drugs and Crime in America's Cities, Washington, DC: Office of Justice Programs.

<sup>9</sup>Goldstein, P.J., et al. "Crack and Homicide in New York City, 1988: A Conceptually-Based Event Analysis," Contemporary Drug Problems, Winter 1989.

\$3.2 billion.<sup>10</sup> Another study estimates that substance abuse (including alcohol and tobacco use) accounted for \$4.1 billion of medic-aid inpatient hospitals costs in 1991, which was 19.2 percent of the total medicaid costs.<sup>11</sup>

Among the fastest growing components of the economic costs of drug use are the direct and indirect costs associated with the spread of infectious diseases among drug users. According to the Centers for Disease Control and Prevention (CDC), almost one-third of the new AIDS cases reported are related directly or indirectly to injection drug use. Injection drug use and sexual contact with injection drug users account for 71 percent of the AIDS cases among adult and adolescent women. The incidence of HIV/AIDS is disproportionately higher in minority communities, and almost 50 percent of the AIDS cases among minorities are related to injection drug use. The trading of sex for drugs or for money to buy drugs is also a major contributor to the spread of HIV/AIDS and sexually transmitted diseases. In fact, according to the CDC, drug use and associated sex-for-drugs activity were major contributing factors to the epidemic of syphilis among adults and congenital syphilis among newborns during 1992.

Drug abuse imposes other costs on society as well. Illicit drug use by pregnant women, for example, shows a high correlation with medical complications for both the mother and her child during and after pregnancy. National data on the incidence of drug use by pregnant women are not available, but it is estimated that each year 100,000 to 300,000 infants are born who have been exposed to illicit drugs in utero. A recent study of women giving birth in California found that 5.2 percent of mothers in that State tested positive for illicit drug use just prior to delivery.<sup>12</sup> Drug-exposed infants have lower birth weights and more health problems at birth than other infants. These problems contribute to health care costs through longer hospital stays and enhanced medical services.

The Office of National Drug Control Policy (ONDCP) recently conducted a study to determine how much money is spent on illegal drugs that otherwise would support legitimate spending or savings by the user in the overall economy, and the findings were astounding. ONDCP found that, between 1988 and 1991, the annual retail trade in illicit drugs amounted to between \$45 billion and \$51 billion. In 1991 Americans spent about \$49 billion on these drugs, broken down as follows: \$30 billion on cocaine, \$9 billion on heroin, \$8 billion on marijuana, and \$2 billion on other illegal drugs and legal drugs used illicitly.<sup>13</sup> This spending is 9 percent higher than the \$45 billion spent in 1990. Comparatively speaking, to show just how substantial this spending is, in 1990 Americans spent \$19 billion for books of all varieties; \$28 billion for toys and sports sup-

<sup>10</sup> Rice, D.P. Unpublished data, Institute for Health and Aging, University of California at San Francisco, CA 94143-0612, n.d., cited in Substance Abuse: The Nation's Number One Health Problem, Key Indicators for Policy, prepared for the Robert Wood Johnson Foundation, Princeton, NJ, October 1993, p. 39.

<sup>11</sup> See Merrill, J. The Cost of Substance Abuse to America's Health Care System, Report 1: Medicaid Hospital Costs, Center on Addiction and Substance Abuse, Columbia University, 1993.

<sup>12</sup> See Vega, W.A., et al. Profile of Alcohol and Drug Use During Pregnancy in California, 1992, report submitted to the State of California, Department of Alcohol and Drug Programs, 1993.

<sup>13</sup> Rhodes, W., Scheiman, P., and Carlson, K. What America's Users Spend on Illegal Drugs, 1988-1991, Abt Associates, Inc., under contract to the Office of National Drug Control Policy, February 1993.



plies; and \$53 billion for visual and audio products, computer equipment, and musical instruments.<sup>14</sup>

Economic costs also fall on governments, which must allocate additional resources for social services and law enforcement to deal with the problems of drug use. A recent survey found that State and local governments spent \$15.9 billion on drug control activities in Fiscal Year (FY) 1991,<sup>15</sup> an increase of nearly 13 percent over FY 1990. The total Federal budget for drug control activities in that same year was \$11.0 billion (including Federal grants totaling \$3.2 billion in support of State and local government drug control spending).

#### THE DRUG USER POPULATION

The most widely used surveys of drug use are the National Household Survey on Drug Abuse (NHSDA) and the Monitoring the Future (MTF) survey (also known as the High School Senior Survey). The NHSDA provides information on drug use patterns and trends among the American household population age 12 and older, including people living in noninstitutional group quarters and the homeless who are in shelters. It does not include military personnel, those incarcerated in jails and prisons, and those in residential treatment facilities. The MTF survey provides information on drug use patterns and trends among high school seniors, and recently among 8th and 10th graders, for schools throughout the contiguous United States. This survey also encompasses American college students and young adults in their twenties and early thirties who are high school graduates. Both the NHSDA and the MTF survey are reliable sources of information about casual drug use.

According to the NHSDA, casual drug use is down significantly. Current (30-day) use of any illicit drug in 1992 fell by 21 percent, from 14.5 million users in 1991 to 11.4 million in 1992. Current use of marijuana also fell substantially, decreasing from 11.6 million in 1988 to 9.0 million in 1992. Exhibit 1-2 shows the progress in reducing cocaine use in households over the 1988 to 1992 time period. Here the results are dramatic. For example, "occasional" use (within the past year but less often than monthly) dropped, from 5.8 million users in 1988 to 3.4 million users in 1992—a 41-percent decline. Current (monthly) cocaine use dropped 55 percent, from 2.9 million users in 1988 to 1.3 million users in 1990. However, frequent (weekly) use of cocaine, as measured by the NHSDA, has changed little since 1985 (650,000 users in both 1985 and 1992).

The MTF survey also showed important progress through 1991 in rates of use of marijuana, cocaine, amphetamines, and a number of other drugs among American high school students, college students, and young adult high school graduates. However, the 1992 survey found evidence of increased use of marijuana, hallucinogens,

<sup>14</sup> Bureau of the Census, Statistical Abstract of the United States 1992, Washington, DC: Government Printing Office, 1993, p. 235.

<sup>15</sup> U.S. Bureau of the Census, State and Local Spending on Drug Control Activities: Report from the National Survey of State and Local Governments, survey conducted for the Office of National Drug Control Policy, December 1993.

cocaine, and stimulants among eighth graders (see Exhibit 1-3).<sup>16</sup> This increase among the youngest respondents surveyed, coupled with evidence of relaxing attitudes about the harmfulness and acceptability of drug use, does not bode well. There was also evidence of slippage in such attitudes and norms among high school seniors, presaging increases in use among that population. Indeed, in 1993 the use of a number of drugs—including marijuana, inhalants, stimulants, LSD (lysergic acid diethylamide), and hallucinogens other than LSD—was up in nearly all grade levels. While the findings from the 1993 survey are not yet available for either the college student or young adult samples, these populations have already shown some evidence of a reversal, with some increases in marijuana and LSD use in 1992.

The Administration recognizes the serious problem represented by increased use in both the 1991-92 and 1992-93 school years and has called for an emergency meeting in early 1994 to bring together drug prevention experts both within and outside the Federal Government to develop a national plan to turn this trend around.

However, existing drug use and consequence indicator systems have failed to provide all the information that is needed about the size, location, and characteristics of the drug-using population. All systems suffer from the failure to represent one aspect of drug use adequately—hardcore drug use. Recent research suggests that hardcore users consume the bulk of illicit drugs; therefore, the lack of knowledge about them cannot be taken lightly.<sup>17</sup>

The best estimates available suggest that hardcore (weekly) drug use remains firmly entrenched. The Drug Abuse Warning Network, a system that collects information on patients seeking hospital emergency room treatment related to their drug use, reported record levels of cocaine- and heroin-related emergency room visits in 1992 (see Exhibit 1-4).<sup>18</sup> Cocaine-related emergencies increased from an estimated 101,200 in 1991 to 119,800 in 1992, with individuals ages 26 to 34 having the highest rate of visits. Cocaine-related emergencies doubled among those age 35 and older between 1988 and 1992, making this age group the fastest growing group seeking medical services at emergency rooms for drug-related health problems. The major reasons offered by users for seeking medical assistance were need for detoxification, unexpected drug reaction, and chronic health effects of drug use.

Heroin-related hospital emergencies rose by 34 percent in 1992, from 35,900 in 1991 to 48,000 in 1992. During the same time period, the number of heroin-related emergencies increased for every adult age group, especially among those age 35 and older. As was the case for cocaine-related emergencies, the rate of heroin-related emergencies was highest among those ages 26 to 34.

<sup>16</sup> Johnston, L.D., O'Malley, P.M., and Bachman, J.G. National Survey Results on Drug Use from the Monitoring the Future Study, 1975-1992 (2 volumes), Rockville, MD: National Institute on Drug Abuse, 1993.

<sup>17</sup> The RAND Corporation estimates that heavy drug users constitute about 20 percent of the cocaine user population but account for roughly two-thirds of total cocaine consumption. (RAND Corporation. Controlling Cocaine: Supply vs. Demand Program, Draft Work in Progress for the Office of National Drug Control Policy, July 1993.)

<sup>18</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. Estimates from the Drug Abuse Warning Network, Advance Report No. 4, September 1993.

Overall estimates indicate that there are about 2.1 million hardcore cocaine users and about 600 thousand hardcore heroin users.<sup>19</sup> These levels are essentially unchanged from 1988, despite some expansion in treatment slots during the same period.<sup>20</sup> This is not to suggest that treatment is ineffective: some of the many casual users in the late 1980's probably progressed to hardcore use in numbers sufficient to offset the number of existing hardcore users who either ended their addiction or reduced their use sufficiently to no longer be considered hardcore users.<sup>21</sup> This is, of course, an empirical question that cannot be answered definitely using existing data systems.

#### TREATMENT SYSTEM ADEQUACY

Substance abuse treatment can reduce hardcore drug use and its consequences to both users and society. Recent estimates suggest that as many as 2.5 million users could benefit from treatment, but only about 1.4 million users were treated in 1993. Largely as a result of inadequate public funding, approximately 1.1 million users did not have the opportunity to receive treatment.<sup>22</sup>

#### REDUCING ILLICIT DRUG PRODUCTION AND AVAILABILITY

The Department of State's 1993 International Narcotics Control Strategy Report (INCSR),<sup>23</sup> a congressionally mandated report, provides information on, among other things, cocaine and illicit opium production. According to the INCSR, total hectares<sup>24</sup> of coca cultivation peaked in 1990 at 220,850 hectares. The 1992 level of 217,808 hectares is only 1 percent less than this peak level. It is estimated that this 1992 cultivation had the potential to produce 955 to 1,165 metric tons of cocaine hydrochloride (HCL), or pure cocaine. Increases in the potential amount of cocaine produced are expected in future years for two reasons: (1) in reaction to increased law enforcement pressures, traffickers have adopted more efficient means of cocaine production and (2) younger coca plants in Peru now are starting to mature and reach higher productive capacity. Fortunately, changing conditions in source and transit countries provide the opportunity to address illicit drug production more

<sup>19</sup> Rhodes, W., Scheiman, P., and Carlson, K. What America's Users Spend on Illegal Drugs, 1988-1991, Abt Associates, Inc., under contract to the Office of National Drug Control Policy, February 1993.

<sup>20</sup> A treatment slot is an opening in a treatment program. According to Government estimates (see Table D-6 in Appendix D), the number of treatment slots has increased since 1988. However, at the same time, the number of people served by the treatment system is estimated to have declined. This has occurred because those entering treatment since 1988 have required more intensive services and longer lengths of stay.

<sup>21</sup> It is estimated that as many as one-fourth to one-third of the number of casual users at any given time could transition to hardcore use. See Understanding Drug Treatment, Office of National Drug Control Policy, June 1990, p. 4.

<sup>22</sup> This estimate is based on an analysis, performed by the Substance Abuse and Mental Health Services Administration's Office of Applied Studies, of the treatment system using data from NHSDA and from reports by treatment providers on the number of treatment episodes. The estimate of 1.1 million users who did not receive treatment in 1993 may be conservative, because (1) the NHSDA is known to undercount the number of hardcore drug users and (2) clients with multiple treatment episodes may be undercounted and thus total (unique) clients overcounted because providers generally do not report repeat treatments.

<sup>23</sup> This report, prepared annually by the State Department, is designed to provide the President with information on steps taken by drug-producing countries to combat drug production, drug trafficking, and money laundering. The report provides country estimates of crop production, crop yield, and indigenous consumption. Crop estimates reflect potential yield and not true production. The next INCSR is scheduled for release April 1, 1994.

<sup>24</sup> A hectare is a metric unit of area equal to 2.471 acres.

aggressively than ever before, because without such efforts, the prospect of declines in production is bleak.

But how much of the total potential cocaine production was available for consumption in the United States in 1992? To answer this question, ONDCP developed a model that begins with INCSR estimates of coca leaf production and ends with an estimate of the amount of cocaine reaching the United States (after accounting for various losses along the way).<sup>25</sup> According to the model, potential cocaine availability in 1992 was estimated to range from 255 to 430 metric tons.<sup>26</sup> Further, it was estimated that U.S. drug users consumed about 300 metric tons of this potentially available supply.<sup>27</sup> Exhibit 1-5 shows the relationship between estimated potential cocaine production and estimated availability of cocaine in the United States.

The average purity of cocaine at the retail level has remained high for several years, averaging 64 percent in 1992. Domestic retail prices, adjusted for purity, declined steadily throughout the 1980's but increased temporarily in 1990 (most likely because of reduced availability; see Exhibit 1-5).<sup>28</sup> Since 1990, however, cocaine prices have continued to decline and cocaine has remained readily available. Cocaine will continue to remain readily available if efforts to curb production and check the flow of cocaine to the United States are unsuccessful.

Reliable estimates of heroin availability in the United States do not exist, but most drug experts believe that availability is increasing. Much is known about opium production: According to the 1993 INCSR, total worldwide illicit opium cultivation has exploded since the mid-1980's; it increased 152 percent in 7 years, from 1,465 metric tons in 1985 to 3,689 metric tons in 1992. (Although Colombia recently has seen a marked increase in opium poppy cultivation, successful eradication efforts and a lack of processing laboratories have kept most of that production from reaching drug users.)

The U.S. heroin market is dominated by high-purity heroin from Southeast Asia (i.e., Burma, Laos, and Thailand). Heroin also is available from Southwest Asia and the Middle East (i.e., Afghani-

<sup>25</sup> This model was developed by the RAND Corporation and modified by Abt Associates, Inc., under contract to the Office of National Drug Control Policy. A discussion of the model is included in Rhodes, W., Scheiman, P., and Carlson, K. *What America's Users Spend on Illegal Drugs*, Abt Associates, February 1993.

<sup>26</sup> The model computes the inputs and outputs at several different steps in the processing of cocaine. Basically it begins with the INCSR estimate of the land area under cultivation and allows for losses from eradication, source country consumption, and seizures (in both source and transshipment countries). An estimate of the amount available for the U.S. market is derived after subtracting amounts seized by Federal authorities and shipments of cocaine to other countries. Estimates from this model will be improved once the results of Project Breakthrough become available. Project Breakthrough led by the Drug Enforcement Agency is a multiagency research project to determine coca base yield in the Andean countries. The project will determine the leaf yield per coca plant, the usable cocaine alkaloid per leaf, and the ability of illicit cocaine laboratory operators to extract coca base.

<sup>27</sup> The estimates of consumption and availability are related in the following ways. First, the availability estimate is based on potential cocaine production, as estimated by the INCSR, which assumes that all cultivation is used to produce pure cocaine. To the extent that cocaine HCL is not produced from potential cultivation, cocaine availability as derived using this information is over estimated. Second, estimated availability does not exclude losses from State and local law enforcement seizures.

<sup>28</sup> Abt Associates, Inc., and BOTECH Corporation each has developed for ONDCP a price series for cocaine, heroin, and marijuana. Each price series is based on two Drug Enforcement Administration (DEA) data sources that are used for law enforcement purposes but also have application in developing long-term price trends. These systems include the DEA's Domestic Monitor Program, which provides extensive data about heroin prices and purities, and the DEA's System to Retrieve Information from Drug Evidence.

stan, Lebanon, Pakistan, and Turkey) and Latin America (i.e., Colombia, Guatemala, and Mexico). Southeast Asia accounted for almost 70 percent of the total worldwide potential opium production in 1992, as shown in Exhibit 1-6. According to the Drug Enforcement Administration's Heroin Signature Program, 58 percent of the heroin samples obtained through domestic purchases and seizures came from Southeast Asia, 32 percent from Southwest Asia or Colombia, and 10 percent from Mexico.<sup>29</sup>

Regarding street price and purity, the heroin available now is more pure than it was a decade ago. Heroin purity at the street purchase level increased from 7 percent in 1982 to 35 percent in 1992, indicating increased availability. Adjusted for changes in purity, heroin prices plummeted until 1990 but increased slightly thereafter. Law enforcement agencies often view an increase in the price of an illicit drug as a result of successful law enforcement operations aimed at trafficking organizations. In this case, the increase in the price of heroin—in the face of the belief that availability is on the rise—could signal an increase in demand. In other words, this increase in price may be evidence of increased heroin use.

Regarding the availability of other drugs, marijuana—the most commonly used illicit drug in the United States—is showing signs of making a comeback. Reports from street ethnographers, police, and treatment providers—buttressed by the MTF survey—suggest that marijuana use was up in 1993. There is also evidence to suggest that hallucinogen use is on the rise and that availability is increasing in a number of States.

#### IMPROVING DRUG-RELATED DATA AND ANALYSIS

The scope, timeliness, and quality of existing information are of central importance to the assessment of the current drug situation. As the U.S. General Accounting Office notes,

Policymakers, researchers, and planners must have accurate drug use information if they are to properly assess the nation's current drug prevalence patterns and trends, substance abuse clinical resource needs, criminal justice intervention initiatives, and overall success in winning the war on drugs.<sup>30</sup>

ONDCP is taking a number of steps to improve data collection. First, ONDCP has developed an early information system to monitor changes in drug use. This system, known as "Pulse Check," draws quarterly upon a network of street ethnographers, police officials, and treatment providers, who gather timely and focused drug information.<sup>31</sup> This monitoring system was established primarily to track trends in heroin use but has been broadened to include other drugs and information or treatment utilization. It suggests that heroin use is on the rise, principally among existing heroin users and former heroin users who are being enticed back into heroin use because of its relatively low price and high purity. The system also

<sup>29</sup> Drug Enforcement Administration. The NNICC Report, 1992: The Supply of Illicit Drugs to the United States, National Narcotics Intelligence Consumers Committee, September 1993, p. 18.

<sup>30</sup> U.S. General Accounting Office (GAO). Drug Use Measurement: Strengths, Limitations, and Recommendations for Improvement, Washington, DC: GAO, GAO/PEMD-9318, 1993, p. 8.

<sup>31</sup> Abt Associates, Inc., produces Pulse Checks quarterly under contract to ONDCP. (Office of National Drug Control Policy. Pulse Check, unpublished memorandums.)

has revealed evidence that (1) polydrug users are increasing their use of heroin and (2) there has been a reemergence of marijuana and LSD use.

Second, ONDCP and SAMHSA have initiated the Heavy User Survey Pilot Study. This 2-year project will test the efficacy of a new data collection technique to estimate the number, characteristics, and location of hardcore drug users. This project has been undertaken to learn more about hardcore drug users in terms of their total number, location, characteristics, and patterns of use. Such information will be valuable for efforts to fine-tune policies and programs aimed at reducing drug use and its consequences to users and society.

Third, to improve the relevancy for policy purposes of all drug-related information systems, ONDCP has undertaken inventories and assessments of systems used to measure international drug prevalence. ONDCP is also engaged in work to identify ways to use existing drug data both more effectively and creatively at the national, State, and local levels to explore drug policy issues. This work should be completed in spring 1994.

Finally, ONDCP will convene the Research, Data, and Evaluation (RD&E) Committee in 1994. Among other activities, the RD&E Committee will review, monitor, and coordinate Federal research, data collection, and evaluation activities and recommend options to improve current data collection efforts. (See Appendix A for a more detailed discussion of the RD&E Committee.)

## II. TREATING AMERICA'S DRUG PROBLEM

Treating America's drug problem must start with an aggressive effort to finally break the cycle of hardcore drug use. Drug dependence is a chronic, relapsing disorder characterized by a strong desire or craving for drugs. Such dependence is difficult to extinguish once it has been established. Hardcore drug users often suffer extreme physical, psychological, emotional, economic, and social pain and are, in many ways, removed from society. Their addiction affects not only them, but their families, friends, and all of society. But even the chronic or hardcore user can successfully travel the path to recovery if that path is properly illuminated. It is the intention of this Strategy to finally take the steps that are needed to illuminate that path and to remove as many of the pitfalls as possible so that, in the end, the individual, familial, and societal costs of drug use are reduced and the dismal cycle of drug abuse is broken for as many as possible.

The 1994 National Drug Control Strategy proposes an increase of \$355 million to expand treatment opportunities for these hardcore users—the largest such effort to date. Providing treatment is both a compassionate and pragmatic course of action. According to the National Institute on Drug Abuse (NIDA), every dollar spent on drug treatment saves \$7—\$4 in reduced costs to the public and \$3 in increased productivity.<sup>32</sup> Drug-using offenders are also responsible for a disproportionate amount of crime, and the frequency

<sup>32</sup> See *How Drug Abuse Takes the Profit Out of Business*, National Institute on Drug Abuse, Department of Health and Human Services, 1991.

and severity of their criminal activity rises dramatically during periods of heavy or addicted use.

Although most recent concern with violence has understandably focused on the brutality attendant to drug trafficking and the weapons involved, there is long-standing evidence that heavy drug use itself spawns violent behavior. This was underscored by a recent PRIDE (Parents' Resource Institute for Drug Education) survey of over 10,000 middle and high school students in a large urban school district; the survey demonstrated that drug users were 3 to 20 times more likely than nonusers to carry guns to school. Preliminary analysis of survey data suggests similar correlations between drug users and gang activity, threatening behavior, and teen suicide.<sup>33</sup> A survey of hardcore drug users not in treatment in 1992 found that more than 50 percent were involved in illegal activity during the 30 days prior to their participation in the survey; 10 percent derived their income solely from illegal sources. Recent detailed studies of violent crime and homicide have found about 50 percent to be in some way drug related.<sup>34</sup>

Fortunately, entry into drug treatment has been shown to have an immediate impact on the levels of drug use and associated crime, while retention in drug treatment has an even greater impact. Major longitudinal studies have shown repeatedly that drug use and criminal activity decline upon entry into treatment and remain below pretreatment levels for up to 6 years after completion of treatment. Studies of opiate addicts found an average reduction in daily narcotics use of 85 percent during treatment and a 40-percent decrease in property crime. A related study of eastern seaboard cities found that the number of annual "crime days" (i.e., days criminally active) per treatment participant dropped from 307 days the year before treatment to about 21 days after 6 months in treatment—a 93-percent reduction. A recent study of methadone treatment participants in the Midwest found a 75-percent reduction in criminal activity for all entrants and an 85-percent reduction for those who remained in treatment for 1 year.<sup>35</sup>

Treatment programs designed to deal directly with violence are showing promise. One example is the Violence Interruption Program of Chicago's Treatment Alternatives to Street Crime (TASC). The program attempts to break the cycle of drug use and violence

<sup>33</sup> Unpublished data from a special study conducted by PRIDE, Inc., 10 Park Place South, Suite 340, Atlanta, Georgia, 1994.

<sup>34</sup> See, for example, Needle, R.H., et al. *Drug Procurement Practices of the Out-of-Treatment Chronic Drug Abuser*, National Institute on Drug Abuse for the Office of National Drug Control Policy, September 1993; Ball, J.C. "The Hyper-Criminal Opiate Addict." In Johnson, B.D., and Wish, E. (eds.), *Crime Rates Among Drug-Abusing Offenders: Final Report to the National Institute of Justice*, New York: Narcotic and Drug Research, Inc., 1986; Chaiken, J.M., and Chaiken, M.R. "Drugs and Predatory Crime." In Tonry, M., and Wilson, J.Q. (eds.), *Drugs and Crime*, Chicago: University of Chicago Press: 203-239 1990; Goldstein, P.J. "The Drugs/Crime Nexus: A Tripartite Conceptual Framework," *Journal of Drug Issues*, Fall 1985: 493-506; and Inciardi, J.A., Horowitz, R., and Pottier, A.E. *Street Kids, Street Drugs, Street Crime: An Examination of Drug Use and Serious Delinquency in Miami*, Belmont, CA: Wadsworth Publishing Company, 1993.

<sup>35</sup> See, for example, Anglin, M.D. "Ensuring Success in Interventions with Drug-Abusing Offenders." Paper presented for the conference on the role of treatment and punishment in controlling drug use, Santa Monica, CA, April 1991; Ball, J.C., Corty, E., Bond, H.R., and Tommasello, A. "The Reduction of Injection Heroin Abuse, Non-Opiate Abuse and Crime During Methadone Maintenance Treatment—Further Findings." Paper presented at the Meeting of the Committee on Problems of Drug Dependency, Philadelphia, PA, June 1989; Ball, J.C., and Ross, A. *The Effectiveness of Methadone Maintenance Treatment: Patients, Programs, Services, and Outcomes*, New York: Springer-Verlag, 1991.

among young male and female drug users and gang members through intensive training and counseling conducted in a day reporting program.

An example of a large-scale comprehensive program to link treatment of hardcore users and criminal justice is the Texas Criminal Justice Treatment Initiative. Begun in 1991 and still in the early stages of implementation, this prison-based effort incorporates assessment, treatment, and transition to the community with strong offender management to avoid relapse and recidivism.

The Administration will continue to support drug treatment as a means to reduce crime and violence by promoting strong linkages between treatment and the criminal justice system, supporting aggressive outreach to get hardcore users into treatment, ensuring strong management and monitoring to foster treatment retention, and demonstrating interventions designed specifically for those at risk of violence.

Final passage of the crime bill will help foster drug treatment, drug testing, graduated sanctions, and offender management programs as integral parts of the criminal justice response to drugs. The criminal justice system will be better linked to treatment services to ensure the safe and effective reentry of drug-using offenders into the community and to reserve prison space for those who represent a threat to public safety. Through TASC and TASC-like management programs, courts will be able to divert users into treatment, monitor treatment progress, and condition either pretrial release or probation on participation in drug treatment. In concert with corrections officials, courts can secure needed treatment for those who must be incarcerated and ensure proper transition and community treatment and supervision for those released from prison or jail programs of "coerced abstinence." These programs need to include swift and sure sanctions, including return to prison and mandatory treatment if an offender lapses into renewed drug use.

Just as the criminal justice system provides many opportunities to identify and offer treatment interventions to drug-using offenders, the justice system on a broader scale, provides multiple opportunities to link drug users to treatment services. Hardcore users often encounter noncriminal legal problems that end up in traffic, divorce, family, domestic, and other noncriminal courts. The Strategy supports efforts to identify and treat heavy drug-using adults and juveniles who come into contact with the justice system through both noncriminal and criminal courts.

#### TARGETING DRUG TREATMENT TO POPULATIONS MOST IN NEED

Expanded treatment capacity will be targeted to those areas and populations most in need and will include support for the provision of vocational and support services as well as training for treatment program staff. Certain populations have had limited opportunities training for treatment, have faced numerous practical obstacles to treatment entry and retention, or have been difficult to reach. Thus, while maintaining support for effective existing programs, the Strategy will target new and existing treatment resources to address the problems of underserved and priority populations such



as low-income citizens, pregnant addicts, addicted women, adolescents within the criminal justice system, and injecting drug users.

As a related matter of national policy, the Administration will continue to press for a health care reform package that emphasizes preventive care, especially for women, young mothers, and children. A companion public health initiative will target prevention, education, and treatment initiatives for those communities most in need to help them reestablish a stable and productive environment for their citizens.

The Department of Health and Human Services (HHS) will work with State substance abuse agencies and service providers to increase outreach efforts and comprehensive treatment services to substance abusing women, including homeless women. HHS also will provide comprehensive treatment services to children of substance abusing women.

#### EXPANDING THE CAPACITY TO TREAT DRUG USERS

Recent estimates suggest that as many as 2.5 million users could benefit from treatment. Most (about 2.1 million) are addicted to cocaine, especially crack-cocaine, often in combination with other illegal drugs and alcohol. Finally, heroin—the nemesis of previous decades—now claims about 600,000 addicts and has been showing signs of a potential comeback.

Not every user needs long-term treatment. For some, testing and monitoring are enough;<sup>36</sup> for others, self-help groups have proven effective. But the majority of addicts and hardcore users need intensive, continuous, and often long-term help. Currently the treatment system does not have the capacity to provide treatment for all who need it. Today the capacity is available to treat roughly 1.4 million drug users—1.1 million fewer than the total in need of treatment. Although most people who need treatment do not actively seek it, if everyone who needs and could benefit from treatment were to seek it this year, the treatment system could only serve about 60 percent.

The budget proposed to carry out this Strategy will add capacity sufficient to treat an additional 140,000 hardcore users next year. This is a significant start, because the provision of intensive treatment to these addicts and hardcore users—offered in concert with targeted prevention and enforcement programs—will begin to reduce the total population in need of treatment. The long-term strategy is to provide additional resources at a rate and in a manner that will best enable the treatment system to expand the delivery of effective services.

<sup>36</sup> Numerous studies support the efficacy of testing and monitoring interventions. See, for example, Byrne, J.M., Lurigio, A.J., and Baird, C. "The Effectiveness of the New Intensive Supervision Programs." In Petersilia, J. (ed.). *Research in Corrections*, Vol. 2 Iss. 2. Boulder, CO: National Institute of Corrections, Sept. 1989; Goldcamp, J.S., and Weiland, D. *Assessing the Impact of Dade County's Felony Drug Court*, Washington, DC: National Institute of Justice 1993; and Wish, E.D., and Gropper, B.A. "Drug Testing in the Criminal Justice System." In Tonry, M., and Wilson, J.Q. (eds.). *Drugs and Crime*, Chicago: University of Chicago Press: 321-391, 1990.

## BRINGING DRUG TREATMENT SERVICES INTO THE MAINSTREAM OF HEALTH CARE

Health care reform is important to the long-term National Drug Control Strategy, and significant benefits would be provided by the President's proposed Health Security Act. Ultimately substance abuse services should be fully incorporated into the Nation's health care system; this is envisioned, under the Health Security Act, by the year 2001.

Even in its early stages of implementation, the Health Security Act will improve access and remove obstacles to drug treatment. The Health Security Act will extend basic substance abuse benefits to many more Americans than are covered today. Persons with addictive disorders who have frequently been unable to secure health insurance because of preexisting conditions relating to their addiction will no longer be excluded. People who use treatment services will no longer face the lifetime limits common to many policies. The Act also includes, under companion public health initiatives, support for essential activities—such as transportation, outreach, patient education, and translation services—that will remove other barriers to treatment participation.

The substance abuse benefit under the Health Security Act is designed to encourage the most effective treatment in the least restrictive environment (e.g., community-based care rather than inpatient hospital care). To accomplish this, States are challenged to make full, coordinated use of all available treatment resources. The Administration will provide leadership and technical assistance to ensure successful implementation.

Specifically, through initial limits on the number of days and the number of visits and a benefit substitution approach, the Health Security Act will spur treatment programs to implement better assessment, treatment-patient matching, treatment progress monitoring, and transition planning. The Act uses 30 days of inpatient coverage as the annual coverage base and allows the substitution of 1 inpatient day for 2 days of intensive outpatient treatment or 4 days/visits of outpatient treatment. In this way, the act attempts to contain costly hospitalization and residential care. In addition to controlling costs, it is believed that this approach will inspire the development of skills in planning, management, and evaluation, on which one can base a sound approach to managed care. This will be essential when the substance abuse benefit is expanded in 2001.

These are significant steps. However, health care reform, in its early stages of implementation, cannot be expected to resolve the long-festering problems presented by hardcore and addicted drug users, many of whom need long-term care now and many of whom are in great financial need. For the foreseeable future, it will be necessary to maintain the commitment to public funding of drug treatment.<sup>37</sup>

<sup>37</sup> There are also a number of needs that must be addressed during the transition to health care reform so that the public and private treatment sectors will be integrated when health care reform is fully implemented, such as the training of new counselors and staff and infrastructure development.

## LINKING EFFECTIVE TREATMENT TO OTHER SOCIAL SERVICES

The goal of expanding treatment also embraces the concept of a comprehensive, integrated approach to treatment services based on a public health model that views drug use, violence, infectious disease, and mental illness as closely related threats to health and welfare. This approach to treatment requires a response to the health, economic, and social aspects of drug use—a response involving a seamless continuum of primary prevention, outreach, intervention, treatment, and recovery support.

The AIDS (acquired immune deficiency syndrome) epidemic—with its spread among drug users, threat to the general population, and demands on the primary health care system—emphasizes the difficulty caused by the separation of drug use treatment from the primary health care system. It is hard to provide services that address both the needs of individual drug users and the public health problem of communicable disease transmission. The recent resurgence in the incidence of tuberculosis and the problem of HIV (human immunodeficiency virus) infection dramatically underscore the interrelationships between drug use and infectious diseases.

Treatment services should include a comprehensive assessment of drug use and overall health, appropriate medical intervention, and case management and patient matching to appropriate levels of care. In addition, services should include HIV testing and counseling, counseling for other sexually transmitted diseases, psychological counseling, life skills education, and assistance in obtaining other needed services (e.g., educational training and remediation, access to secure and drug-free housing, job readiness or employment skills, job placement assistance, transportation, child care, prevention services for children of clients, and followup support). Furthermore, interventions with young people should impart life skills, such as positive conflict resolution, which can channel potentially aggressive behavior into positive peer leadership initiatives.

This strategy reflects an awareness that the social problems stemming from drug use do not fit neatly into separate categories, and neither can efforts to solve these problems. Effective drug treatment and prevention require the broadest possible involvement of community resources. In this regard, recovering Americans offer a substantial resource that has been largely untapped and that can bring special experience, commitment, and sensitivity to treatment and prevention efforts.

## EVALUATING TREATMENT: RECOGNIZING EFFECTIVE MEDICATIONS AND MODALITIES

The Administration maintains strong support for drug treatment research, as evidenced by the President's Fiscal Year (FY) 1995 budget request of nearly \$265 million. Until recently, there were only two approved medications for drug treatment: (1) methadone, which replaces heroin at the receptor level in the human brain, and (2) naltrexone, which is a narcotic antagonist. However, in 1993, all necessary studies and associated Federal regulations for the approval of LAAM (levo-alpha-acetylmethadol hydrochloride), a longer acting alternative to methadone, were completed. LAAM is administered every 48 hours, unlike methadone, which is administered

every 24 hours. Thus, LAAM shows promise in breaking the drug-seeking habits of persons in treatment and in allowing them to hold jobs or to travel; also, LAAM may prove more acceptable for some patients and less subject to diversion for illicit use. Furthermore, seeing some patients less frequently may make it possible to treat more people with the same amount of staff.

NIDA is completing a clinical trial of buprenorphine, a unique opiate treatment agent, and it has developed a new 30-day dosage form of the narcotic antagonist naltrexone, which is currently under study. New agents that prove effective in treating heroin dependence also will be effective in treating other forms of opiate addiction (e.g., addiction to prescription drugs that are opiate-based). Researchers also have identified several potential medications for treating cocaine and crack-cocaine addiction. NIDA is conducting rigorous clinical trials to determine the usefulness of desipramine, flupenthixol, amantadine, buprenorphine, and other potential agents.

#### APPLYING THE RESULTS OF RESEARCH: MEETING CLINICAL NEEDS

Research provides the scientific basis for effective drug treatment programs and will further understanding of drug treatment (i.e., its place in the larger health care delivery system; how it is organized, financed, regulated, and delivered; the populations in need and their problems/needs, including access and barriers to treatment; and the range, clinical effectiveness, and cost-effectiveness of treatment outcomes).

The Administration's program of health services research examines such issues as the demand for and the delivery of treatment services, including the costs involved and how access, quality, and outcome of treatment are affected by alternative organizational and manpower configurations for treatment delivery.

For many drugs of abuse, no effective pharmacological agents or medications are available and behavioral therapy is the only treatment. Even when medications are available, they are generally used in conjunction with behavioral strategies. Nonpharmacological treatment research focuses on (1) the development, refinement, and efficacy testing of approaches, such as counseling; (2) related behavioral interventions, such as contingency management; (3) psychotherapy; (4) relapse prevention training; and (5) community and group reinforcement.

A new Behavioral Treatment Research initiative—under which NIDA and the Substance Abuse and Mental Health Services Administration (SAMHSA) will develop, pilot-test, and disseminate promising therapies—is designed to bring more scientific rigor and reliability to drug treatment. Therapies showing promise will be subjected to controlled clinical trials. In turn, those found most effective will be documented and replicated in broader, controlled demonstrations and evaluated at each step. The resulting procedures will be disseminated to the professional community and should provide useful references for resource allocators. This approach is essentially similar to that now taken by the Food and Drug Administration in the approval of new medications. As such, it represents an important step in controlling, evaluating, and dis-

seminating procedures that have often been highly susceptible to variations in delivery and effectiveness in the past.

In a more immediate practical sense, SAMHSA is helping the existing treatment system absorb and apply procedures that have already been demonstrated to be effective. Schools and training programs for health and treatment professionals are receiving technical assistance from HHS to bring treatment staff and programs to a higher level of performance. All physicians and health care professionals must be able to inform their patients about the problems of drug use; professional accrediting organizations and associations should ensure that such knowledge is a prerequisite to accreditation or certification.

#### EVALUATING TREATMENT: STRENGTHENING PROGRAMS AND APPROACHES

Numerous evaluation programs are beginning to provide practical information. HHS will continue to promulgate treatment protocols and outcome measures for use by all treatment grant recipients in FY 1995. Evaluation of drug treatment in the Bureau of Prisons will be completed in 1995, as will an evaluation of the TASC program; related evaluation of State prison treatment programs will be initiated in 1994. Other evaluations under way include the Job Corps' Drug Treatment Enrichment Program, under which more than 5,000 students have been assessed, with approximately 25 percent of them placed in some level of drug intervention. The evaluation will then compare these students' performances with those of students placed in a less comprehensive program. Another evaluation will study outreach modalities to examine the effectiveness of various types of outreach to heavy users as pathways into drug treatment.

The Strategy also promotes program evaluation as an integral part of sound program management. Tools under development for use by treatment providers include a uniform chart of accounts suitable for service providers to determine unit costs. Furthermore, analysis will be available soon from a major national treatment improvement evaluation study, which can provide information about treatment outcomes in innovative treatment settings, such as boot-camps; treatment requirements for hardcore drug users; patient-practitioner matching; and patient-service matching. In addition to receiving technical information and assistance, in 1994 all new HHS drug treatment grantees are required to participate in a national treatment evaluation, which includes collection of assessment, process, and outcome data.

#### III. PROTECTING AMERICA'S CHILDREN THROUGH EDUCATION AND PREVENTION

Educating the youth of this Nation is one of society's most important responsibilities, and nowhere is the need for education greater than to teach children about the dangers of drug use. And while the field of prevention is still developing, there is national consensus for more and better prevention programs targeted to youth. Comprehensive, community-based drug prevention programs are effective in reducing the likelihood that young people will start

using drugs, and these programs can lessen the chance that youth will become heavily involved with serious drug use.

The Federal role in drug use prevention includes providing leadership, training, technical assistance, and research; fostering cooperation among Federal, State, and local agencies; facilitating State and local prevention efforts; and providing incentives to encourage States and localities to adopt and implement more effective and/or innovative drug prevention approaches.

The National Structured Evaluation, a nationwide evaluation project mandated by the Anti-Drug Abuse Act of 1988, is near completion, and the principles and critical elements of effective substance abuse prevention programs are beginning to emerge. As part of this study, more than 2,000 drug use prevention programs were screened, and 440 received indepth evaluation. The resulting report will be the most exhaustive study completed to date of what is effective in prevention programming.

Based on this information, the Department of Health and Human Services is developing benchmarks, guidelines, and standards for effective prevention programs, including ideal performance characteristics as well as practical performance indicators of programs and systems. Any existing program will be able to request an assessment against these criteria to measure potential effectiveness and can receive recommendations to stay current with state-of-the-art practices. This should result in several model programs and an increased national understanding as to what is effective drug use prevention.

The reinvigoration and further expansion of the national prevention effort depends upon systematically advancing these evaluation efforts. Although it is important that the Federal Government provide leadership, any lasting progress will require a close partnership with State and local governments as well as with professional societies, private organizations and foundations, educational establishments, business and industry, religious institutions, community associations, and other constituency groups. Contributions by private organizations have been invaluable in the progress of drug use prevention and should be encouraged.

To build on solid information and to make necessary revisions in response to changing circumstances, the Office of National Drug Control Policy will convene a panel of national scholars and experts in substance abuse prevention by mid-1994. This meeting will ensure that prevention will have an increasingly important and visible role in the Nation's demand reduction efforts.

#### SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

Recent surveys of young people's use and attitudes about illegal drugs show that the long-term decline in drug use among youth may be ending. Use of some drugs—marijuana and hallucinogens such as LSD—among youth actually increased in each of the last 2 school years. Fewer students (of 8th, 10th, and 12th graders) perceived that drug use was harmful in the 1992-93 survey than in the 1991-92 survey.

Some young people are more vulnerable than others. The experiences of drug prevention programs suggest certain ages and/or grade levels at which young people appear most susceptible to first

use—the middle school years, the first year of high school, and the first year of college. Supporting young people effectively through these vulnerable periods will require a strong effort by educational institutions and a special attentiveness by parents.

Evaluations of prevention projects conducted under the Drug-Free Schools and Communities Act (DFSCA) are not yet complete. However, given the progress made to date in attacking drug use and in identifying areas that require further work, the Administration strongly supports the reauthorization of the important drug use prevention activities under DFSCA in concert with the violence prevention elements of the Safe Schools Act. The Administration's proposal for the new Safe and Drug-Free Schools and Communities Act incorporates needed improvements in drug prevention programs. The Act also authorizes comprehensive prevention programs that include antiviolence components (e.g., conflict resolution training and other promising antiviolence strategies).

Programs working with young people should be targeted geographically and developmentally. Communities experiencing high levels of poverty and heavy drug use should receive intensive support. Existing antidrug curricula should be age appropriate and should focus special attention on students in the grades shown to be most vulnerable, and programs for students in the directly preceding grades should be intensified. Programs for the years in question should be culturally relevant and enhanced to provide the most appropriate message, the proper level of intensity, and the necessary support.

#### NATIONAL SERVICE PROGRAM

The President's National Service Program will make a significant contribution to the National Drug Control Strategy through its Summer of Safety and year-round programs. National Service participants will work on programs to enhance school readiness and promote school success; help to control crime by improving community services, law enforcement, and victim services and reducing the incidence of violence; rebuild neighborhoods by renovating and rehabilitating aging housing stock; improve neighborhood environments; and provide better health care in America's communities during their 2 years of service.

At the same time, National Service participants will learn how to work, how to save, how to plan—in short, how to achieve. Such efforts are essential to long-term drug control. Drug abuse prevention research indicates that a key contributor to effective drug prevention is helping at-risk youth bond to societal institutions, including family, positive peers, work environments, schools, and community service organizations.

#### DRUG-FREE WORKPLACES

Drug use in America's workplaces has serious negative consequences. It threatens worker safety, degrades personal health, and can seriously hinder training effectiveness. Businesses face higher injury rates, spiraling health care costs, and lower productivity and competitiveness in both the domestic and global markets. Drug use in the workplace also decreases the ability of communities to resist drug distribution and use.

The Administration strongly supports efforts to make America's workplaces drug free. It seeks to ensure the effectiveness of Federal drug-free workplace programs, encouraging States, local communities, and private-sector organizations and businesses to implement and maintain comprehensive drug-free programs. Given that about three-fourths of adult men over the age of 16 and more than one-half of adult women in the United States are employed, the workplace has become a key social institution for both earning a living and for learning positive lifestyles, attitudes, and behaviors.

Effective workplace programs must begin with a policy that clearly states that drug use and alcohol abuse are not acceptable and that includes means to identify and help workers who are engaged in substance abuse. Drug-free workplace programs also should include employee assistance programs; employee education programs, including classes for parents on how to recognize early signs of their children's drug use; supervisor training programs; and substance abuse testing programs in selected workplace environments, particularly those that are safety sensitive. The programs should include strict confidentiality provisions to protect employee records and information regarding substance abuse problems.

The Administration intends to review available data on the workplace to determine what new information may be needed to identify effective workplace programs and understand what makes these programs effective as well as to determine how that information may be generated. Furthermore, to move past the anecdotal information that characterizes much of the workplace discussion, the Administration will initiate necessary research to provide scientific information on the relationship between workplace substance abuse and worker health, safety, and performance.

The Administration also seeks to promote active partnerships between the Federal Government and State governments and with large and small businesses to further the development of drug-free workplaces throughout the Nation. The Strategy supports and will promote the broad drug-free workplace recommendations of the President's Commission on Model State Drug Laws.

#### ALCOHOL, TOBACCO, AND PRIMARY PREVENTION

Success in ending drug use among young people will not be complete until the illicit use of alcohol and tobacco is reduced sharply. Early alcohol and tobacco use is often a strong predictor of illegal drug use. In addition, the behavioral effects of alcohol use have been associated with transmission of HIV (human immunodeficiency virus). Data from recent Monitoring the Future (previously called the High School Senior) Surveys show that alcohol consumption by high school seniors continues to decline but that the number of underage alcohol consumers is still simply too high. Alcohol abuse also is a significant problem at colleges and universities. Recent data also show a departure from the declining trend in tobacco use by teenagers and a decrease in the percentage of high school seniors who disapprove of smoking.

All States recognize the dangers attendant to early alcohol use and have made the purchase of alcohol illegal for those under 21 years of age. To make this policy effective, States and localities



must eliminate legal loopholes and enforce laws related to the consumption, sale, and promotion of alcohol. States should review and, where necessary, adopt the policies, procedures, and legislation set forth by the President's Commission on Model State Drug Laws. These are intended to restrict the promotion and availability of alcohol to youth by improving the effectiveness of State laws and local ordinances.<sup>38</sup>

Federal prevention strategies must continue to provide up-to-date information and educational approaches targeted to young people. The Departments of HHS, Education, Transportation, and the Treasury will continue to place priority attention on the seriousness of underage use of alcohol and to include the prevention of alcohol use in their activities. In addition, these agencies will continue to provide information and material to help eliminate the sale of alcohol to those under 21 years of age and to prevent young people from using alcohol. Furthermore, the Departments of HHS and Transportation will continue their drunk and drugged-driving initiative to deter young drivers from substance use.

The alcohol and tobacco industries should be cognizant of the adverse effects of marketing campaigns that target ethnic and minority groups and young people in general. In addition to reviewing their advertising and promotional practices, the industries are encouraged to work with prevention organizations to devise effective strategies against underage drinking and smoking and against underage sales of their products.

Parents also play a critical role by setting the rules for their own homes, by reaching agreements with the parents of their children's friends, by demanding strong policies in the schools, and by demanding compliance with the law by local merchants.

#### PREVENTION RESEARCH

Drug prevention research indicates that prevention strategies can successfully prevent adolescent drug use onset and progression. Studies further suggest that the most successful prevention programs are those that are comprehensive in approach and include multiple components such as drug education, media campaigns, family education, and prevention-focused health policy.<sup>39</sup>

Further research and demonstrations are needed to develop and test the efficacy of drug use prevention strategies that focus on the needs of culturally diverse groups. Prevention research also is needed to determine what prevention strategies are effective for youth at high risk for drug use. Research into the implementation of community coalitions and comprehensive drug prevention models and evaluations of demonstrations is essential (see Appendix A).

Finally, research is needed to show how prevention interventions for children at different ages can be made to build upon and reinforce one another. Greater attention also should be paid to the implications of epidemiological and etiological research for the design

<sup>38</sup> Regarding tobacco, the Synar Amendment was passed as part of the ADAMHA Reorganization Act (P.L. 102-321). This law requires States, as a condition of receiving their substance abuse block grant funds, to enact legislation that prohibits the sale and distribution of tobacco products to minors.

<sup>39</sup> A recent study for the ONDCP found, among other things, evidence of improved self-esteem among students in school-based programs. See Abt Associates, Inc., Substance Abuse Prevention: What Works, and Why, August 1993.

of effective prevention programs, particularly for early elementary and young adult populations.

#### IV. PROTECTING NEIGHBORHOODS THROUGH ENFORCEMENT AND COMMUNITY ACTION

One of the ironies in drug policy since passage of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), which established the Office of National Drug Control Policy (ONDCP), is that—despite the Act's call for a balanced, comprehensive drug strategy—by dividing ONDCP into supply and demand offices and mandating that Federal drug control programs be classified as supply or demand reduction programs, the Act helped set into motion a competition for drug-related resources that has at times undermined the domestic national drug policy debate. This Administration rejects the premise that supply reduction programs and demand reduction programs must compete against each other. The levels of drug use and drug-related crime in this country remain at such unacceptable levels that the United States cannot afford to pit one component of domestic strategy against another. Only by working together and dealing with drug use and trafficking in an integrated fashion can the difficult decisions be made about how best to spend the scant resources that are available.

Recognizing (1) that demand reduction programs—drug treatment, prevention, and education—cannot succeed if drugs are readily available and (2) that drug law enforcement programs cannot ultimately succeed unless this Nation's appetite for illegal drugs is curbed, the Strategy rejects the false choice between these approaches. In fact, while the Strategy provides the largest ever increase in funds dedicated for the treatment of hardcore users and redoubles prevention efforts aimed at youth, this Strategy also provides for substantial increases to State and local law enforcement, primarily to put more police on America's streets.

Thus, the Administration's first priority in making the Nation's streets safer is to pass a tough and smart crime bill as soon as possible. As outlined by the President in his State of the Union Address, such a crime bill must authorize funds to put more police on the street and to expand community policing; boost the number of boot camps for nonviolent offenders and the availability of treatment for drug offenders; and include reasonable gun controls, such as a ban on assault weapons.

But just as the Strategy focuses on hardcore drug users—those heaviest users who consume the bulk of illegal drugs—a crime bill sent to the President's desk must include tough penalties for those 6 percent of violent offenders who commit 70 percent of the violent crimes. A strong message must be sent to the most violent criminals that, for them, it is "three strikes and you're out."

Beyond the new initiatives anticipated in the crime bill and included in the President's budget, the Strategy commits the full force of Federal investigative and prosecutive tools to target major drug trafficking organizations so that they may be disrupted, dismantled, and destroyed. The goal is to reduce illicit drug trafficking both in and directed at the United States. The Administration will work both toward making drugs harder to obtain and more costly (in terms of apprehensions, prosecutions, convictions, and forfeit-

ures) for the traffickers and toward reducing the violence attendant to drug activity.

The law enforcement strategy will focus on (1) Federal investigations and prosecutions of the international kingpin organizations and major domestic drug enterprises; (2) efforts to have Federal, State, and local law enforcement work in a coordinated and efficient manner to ensure that all levels and functions of the drug trafficking trade are pursued by those law enforcement authorities best able to address them; and (3) law enforcement's response to that part of the illicit drug trade responsible for the greatest violence in this country. Drug law enforcement is not just a Federal responsibility: greater cooperation and consultation at all levels of law enforcement are central to the Strategy. Federal initiatives must be coordinated and integrated with those of State and local agencies and must support efforts by education, treatment, and prevention services to make communities—particularly those hit hardest by drug abuse and drug-related crime—safe and habitable.

However, several enforcement areas are especially, if not uniquely, Federal responsibilities, including drug interdiction internationally and at the borders, coordinated investigations of international and multijurisdictional drug trafficking enterprises, efforts to attack drug money laundering, the illicit diversion of precursor and essential chemicals, and the collection and dissemination of foreign and nationwide drug intelligence. The focus of these efforts will be directed against the cocaine and heroin trades, although marijuana and synthetic drug trafficking and the illegal diversion of pharmaceuticals and listed chemicals also will be addressed. The Administration is working vigorously to ensure that these and other Federal drug control efforts are both effective and efficient. Departments and agencies with drug law enforcement responsibilities have identified several areas to consolidate efforts, reduce duplication in responsibilities, and share valuable drug intelligence. The Administration will continue to review programs to determine where additional improvements can be made.

Internationally this means new and better partnerships between Federal law enforcement agencies and their counterparts in foreign source and transit countries and in other friendly nations cooperating in a collective effort. Domestically this means better integration and coordination of Federal law enforcement efforts and, as appropriate, more Federal support for State and local enforcement efforts.

#### PUTTING THE COP "BACK ON THE BEAT"

The Administration is committed to helping control and prevent crime by putting more police on the streets and in neighborhoods. On December 20, 1993, the Administration made its first down payment on a commitment to put 100,000 additional police on the street by announcing the first round of community policing grant awards to 74 local law enforcement agencies under the Police Hiring Supplement Program. Over the next several months, the Administration will award grants to about 150 additional police departments, bringing the total number of additional officers funded by this programs to approximately 2,000.

The crime bill pending in Congress builds on the Police Hiring Supplement and greatly expands the Administration's effort to put more police on the street and expand community policing. Under the provisions of this legislation, approximately \$9 billion will be available for community policing activities.

This new "Cop on the Beat" program will help communities that make a long-term commitment to community policing increase the number of police officers on patrol in their neighborhoods. More police on the street working in partnership with community residents means less crime and fear of crime. The program is intended to accomplish the following:

- Rehire police officers who have been laid off as a result of State and local budget reductions and deploy them in community policing roles.
- Hire new police officers for deployment in community policing across the Nation.
- Increase the number of police officers involved in activities that are focused on interaction with community residents on proactive crime control and prevention.
- Provide specialized training to police officers to enhance their problemsolving, conflict resolution, mediation, and other skills to work in partnership with the community.
- Increase police participation in multiagency early intervention programs.
- Develop new technologies to assist police departments in reorienting the emphasis of their activities from reacting to crime to preventing crime.
- Develop and implement innovative programs that permit community residents to assist police officers in crime prevention.
- Establish and implement innovative crime control and prevention programs involving young persons and police officers in the community.
- Develop and establish new administrative and managerial systems that facilitate the adoption of community policing as a departmentwide philosophy.

The two key elements of community policing—community engagement and problemsolving—can reduce the supply of and demand for drugs and also minimize the negative consequences of drug trafficking and abuse. This innovative approach to law enforcement enables communities to reclaim their parks, playgrounds, and streets. It reduces the demand for drugs by discouraging all forms of criminal behavior and promotes community cohesion, which is essential to developing effective community-based drug treatment and prevention programs.

#### REDUCING THE ROLE OF FIREARMS IN DRUG-RELATED VIOLENCE

The 1993 Interim Strategy called for the passage of the Brady Bill and the creation of a 5-day waiting period for handgun purchases to allow a background check of the purchaser's age, mental health, and criminal record. Congress passed the Brady Bill, which the President signed into law on November 30, 1993. The Bureau of Alcohol, Tobacco, and Firearms is drafting new Federal regulations to implement the 5-day waiting period and background inves-

tigation provisions, which will become effective on February 28, 1994. The Departments of the Treasury and Justice are working cooperatively to implement the law and to develop an effective and efficient system to check the backgrounds of firearms purchasers.

The next steps are legislation that deals with the harms that firearms—particularly firearms used in connection with drug offenses—inflict upon society, a ban on the manufacture, transfer, or possession of assault weapons, and restrictions on semiautomatic weapons. Police chiefs around the country have stated repeatedly that it is imperative that assault weapons be removed from the hands of drug-dealing gangs. A recent study showed that the increasing number of deaths among young people was due in large part to the lethal nature of semiautomatic weapons. The Senate version of the crime bill contains provisions regarding the use or importation of firearms in connection with drug trafficking, as well as a ban on many assault weapons and on the sale of weapons to minors. These provisions must be quickly enacted by Congress.

The Administration already has taken regulatory action to ban the importation of assault pistols. In addition, the Department of the Treasury is developing initiatives to curb illicit firearms dealing. Steps are under way to develop changes to the Federal Firearms License program that will effectively curtail the misuse of these licenses while permitting legitimate firearms businesses to continue to operate.

#### EXPANDING DRUG COURTS AND BOOT CAMPS

Drug Court programs in Fort Lauderdale, Miami, Oakland, Portland, and New York have shown that court-ordered rehabilitation programs can be successful in reducing drug use and alleviating prison and jail overcrowding, making room for the more serious and dangerous offenders.

Instead of being directly sentenced to a period of incarceration, qualifying drug-using offenders are placed in a court-ordered rehabilitation program requiring drug testing and intensive supervision and treatment. If an offender fails in the program, graduated sanctions—including increased supervision, residential treatment, community-based incarceration, and jail or prison sentences—are used to demand that the offender be drug free. Put simply, drug using offenders are given one of two choices: treatment or jail.

The crime bills being considered by the House and Senate, as well as the President's budget, include monies that could be used to fund the basic components of Drug Court-type programs. Grants for drug testing and treatment of State prisoners could be linked to monies provided for alternative sentencing programs (such as boot camps) in order to couple treatment opportunities with punishment options.

#### DEFINING THE FEDERAL ROLE

The Federal role in drug law enforcement includes (1) aggressively pursuing those enforcement efforts that target the major international and inter-State drug enterprises; (2) providing leadership, training, technical assistance, and research; (3) fostering cooperation among Federal, State, and local agencies; and (4) facilitating State and local enforcement and criminal justice efforts and/

or innovative drug control approaches. Federal law enforcement and criminal justice agencies also can assist States and localities through participation in joint task forces to rid communities of drugs and the violence associated with their use and distribution. These multiagency task forces are exemplified by the Organized Crime Drug Enforcement Task Forces, which work with senior Federal prosecutors and often involve State and local authorities. The task forces can (1) utilize the range of Federal investigative and prosecutive tools, as well as associated seizure and forfeiture laws; (2) facilitate cooperation among all levels of government; and (3) provide a means of combining skills and resources to achieve the greatest effects against drug offenders. Use of such task forces can help bridge the gaps in enforcement between those efforts that are uniquely Federal and those that are most successfully undertaken by State and local authorities. In this way, all levels of drug trafficking—from the international suppliers through the transportation and financial service providers, to the wholesalers, to the street corner retailers—can be targeted by law enforcement.

The Federal Government is prepared to participate in multi-agency and multijurisdictional cooperative efforts when the needs of the community, the State, or the region can best be served by such efforts. Task forces require clear missions and must be carefully structured and coordinated to minimize duplication and overlap with other law enforcement efforts. Care must be taken to ensure that federally initiated task forces do not adversely impact State and local capabilities.

Federal initiatives should support States and localities as they define and improve their criminal justice systems. Collaborative efforts to investigate, prosecute, and adjudicate drug crimes will enhance efficiency and effectiveness. Federal support can facilitate efforts to improve policing, sentencing practices, and correctional systems. Federal law enforcement agencies can disseminate the results of practical evaluations regarding what works and how to successfully implement initiatives. The Administration will work at the Federal level to eliminate obstacles to coordination and delivery of integrated services at the local level.

#### REDUCING VIOLENCE

Reducing the level of violence in America is an important goal for law enforcement. Drug use and drug trafficking fuel the high level of violence across the country in several ways. For example, the suppliers control and discipline their underlings with violence, the retailers stake out and enforce their market areas with violence, and the drug abusers harm themselves and those around them as a result of their intoxication. Drug use also leads to violence by bringing decay and demoralization to those communities hardest hit by drug abuse and drug trafficking. United States law enforcement will often be an integral part of the prevention and treatment initiatives of this Strategy.<sup>40</sup>

<sup>40</sup> The Attorney General recently announced a violent crime initiative. To implement this initiative, the U.S. Attorney in each judicial district will be encouraged to seek the active participation of all primary investigative and prosecutorial agencies in the district in order to best respond to local need for support in the area of violent crime.

## TARGETING ORGANIZATIONS THAT CAUSE VIOLENCE IN COMMUNITIES

Gangs are among the major illicit drug distributors in American cities. Federal assistance against significant gang activity will be expanded as appropriate through joint task forces and other initiatives. While the problem of gangs and gang-related violence involves more than drug use and trafficking, the Strategy recognizes that drug gangs are ruthless, using violence and bribery without hesitation, often in furtherance of drug distribution.

Although such gangs may deal in a volume of drugs lower than that typically seen in Federal drug cases, several factors make Federal participation in State and local investigations and prosecution appropriate and necessary. These include the multi-State nature of gang operations, the potential violation of immigration laws by many of these groups, their involvement in violations of Federal firearms laws, and the threat their violence poses to local communities. Thus, efforts to control the gang problem will be a focus of our national antidrug efforts.

## JUVENILE JUSTICE POLICY: TARGETING AT-RISK YOUTH

Drug use reduction initiatives linked to the criminal justice system should especially target adolescent and young adult populations. Early intervention and prevention programs should involve police, social workers, juvenile justice workers, educators, health professionals, and volunteers to intervene with those youth likely to become delinquent.

The Nation cannot afford to lose juveniles as productive members of society. Prevention is an efficient and cost-effective method of reducing juvenile drug involvement. However, some young people, fully aware of the dangers of drugs, become involved anyway, generally for profit. To stop the formation of youth drug gangs, prevention programs that address the economic and social causes that lead to such gang and drug involvement will be developed. The Federal Government will support demonstration programs that show the most promise and will continue to distribute information across the Nation about successful programs and activities.

If a juvenile commits an offense, the juvenile justice system must respond quickly and firmly. Juveniles must be held accountable for their actions through immediate and effective intervention and sanctions, including appropriate treatment, training, and followup prevention efforts. A system of justice for delinquent offenders should combine accountability with increasingly intensive treatment and rehabilitation services.

## DISRUPTING MAJOR TRAFFICKING ORGANIZATIONS

Targeting the major trafficking organizations will continue to be the top priority of Federal drug law enforcement authorities. The Attorney General and the Secretary of the Treasury are working together to develop comprehensive domestic investigative plans that will cover the various Federal agencies and include appropriate roles for State and local enforcement units. This endeavor is intended to ensure the integration of efforts by the major drug investigative agencies and will reduce existing duplication of effort and close gaps. The President has directed that Federal law en-

forcement plans also will be developed in close harmony with efforts to support foreign governments that are dealing with the major drug cartels in source and transit countries. The domestic and international drug law enforcement plans will be developed under the general oversight and direction of the Director of ONDCP.

At the Federal level, the kingpin and enterprise strategies will focus efforts on the most powerful and pernicious drug trafficking organizations: those that do the most harm to our citizens and that account for the largest quantities of drugs and violence. The Federal Government will continue and redouble its leadership efforts to direct law enforcement endeavors against the most important elements of these drug organizations—their leadership, production, distribution, transportation, communications networks, chemical supplies, and financial services and assets. Efforts to identify, target, and attack these drug trafficking enterprises and their supporting services will be continued both in the United States and in foreign countries, and this will be done in a sustained and systematic manner both in the field and in the courtroom.

The kingpin and enterprise strategies direct a coordinated attack on the major drug trafficking organizations. These organizations, largely headquartered outside the United States, operate within the United States as well—whether through (1) component entities or transportation and financial service providers (as in the case of the cocaine distribution networks) or (2) through independent organizations (as in the case of much of the Southeast Asian heroin marketed in this country). Increasingly sophisticated in their operations, kingpin organizations are, nevertheless, vulnerable in a number of respects. Federal law enforcement agencies will exploit these vulnerabilities.

In addition to the major international drug trafficking organizations there are criminal organizations that conduct transportation and distribution operations across State lines within this country. Increasingly violent and sophisticated, these inter-State and regional groups are critical parts of the system by which the bulk of imported cocaine or heroin finds its way to the streets of this Nation. More than that, these groups represent an ever growing menace to the safety of the communities through which they move and in which they operate.

The Federal Government is committed to redoubling its efforts to attack inter-State and regional drug trafficking activities in a comprehensive and efficient way. Federal law enforcement agencies bear a particular responsibility and, over the years, have developed a particular expertise in dealing with organized criminal enterprises operating across State lines. That responsibility is especially evident in light of the harm the inter-State criminal organizations cause to our citizens. The structures and operating methods of many criminal enterprises have been penetrated and destroyed using Federal procedures and tools in investigations and Federal criminal statutes for prosecutions. The Federal Government's ability to focus its investigative and prosecutive resources in an organizationally based approach to major international and domestic criminal enterprises will benefit the entire spectrum of drug law enforcement efforts.



All of the foregoing require an unequivocal commitment to ensuring that Federal law enforcement agencies coordinate their efforts, reduce duplication, and enhance their partnership with the law enforcement authorities of States and localities. The two Federal Government Departments most directly involved in drug law enforcement—the Justice and Treasury Departments—have each initiated significant efforts to eliminate overlaps, inefficiencies, and impediments to cooperation within their respective law enforcement operations.

#### BORDER INTERDICTION

ONDCP is conducting a review of the existing interdiction command and control centers. A fundamental premise of the review is that existing facilities and capabilities will be used, but better integration will be achieved. This restructuring and consolidation, which will occur in Fiscal Year 1994, will improve the integration and coordination of the interdiction efforts, reduce overall costs, and facilitate improvements in interdiction intelligence efforts.

The U.S. Customs Service and the Immigration and Naturalization Service (INS) are working to integrate their efforts throughout the United States, particularly along the southwestern U.S. border. To this end they will map out joint strategies, identify operational improvements, and plan the joint use of existing resources to target criminal organizations along the border. Under pending crime legislation, the U.S. Border Patrol will receive additional personnel and equipment to help stem the flow of both illegal immigration and illegal drugs.

#### HIGH-INTENSITY DRUG TRAFFICKING AREA PROGRAM

Special emphasis will continue to be placed on those areas of the country most heavily impacted by drug trafficking via the High-Intensity Drug Trafficking Area (HIDTA) Program.<sup>41</sup> The activities in the high-intensity areas adversely affect other areas of the country. The Federal, State, and local partnerships in these areas will continue to receive priority support to advance the goals of the Strategy. The HIDTA's will continue their joint efforts to reduce the availability of drugs by dismantling the most significant organizations involved in drug trafficking and drug money laundering.

The extensive Southwest Border HIDTA will emphasize collaborative Federal, State, and local efforts in areas most heavily affected by drug trafficking. Support to the Operation Alliance coalition will be provided primarily to empower joint planning partnerships, such as the Arizona Alliance Planning Committee, in order to focus collective efforts on the most significant drug trafficking and drug-money laundering organizations operating in the highest threat areas. The HIDTA coordinator will ensure overall coordination of the Southwest Border HIDTA program.

New "distribution" HIDTA's—drug distribution areas with the greatest number of hardcore drug users—will be designated based on data from the Drug Abuse Warning Network and other sources.

<sup>41</sup>The HIDTA Program has developed as an equal partnership of Federal, State, and local agencies. There are currently six HIDTA's: Houston, Los Angeles, Miami, New York, the Southwest border, and the Washington, D.C.-Baltimore area.

These HIDTA's will concentrate multidisciplinary efforts on distribution networks and their associated clienteles.

Another new initiative involves expansion of the HIDTA Program to support this Strategy's priority of reducing chronic drug use, under which newly designated "distribution" HIDTA communities will be given maximum flexibility in allocating funds for joint law enforcement initiatives and treatment of designated criminal justice populations. The Washington, D.C.-Baltimore area has been designated by the Director of ONDCP to be the prototype for this new initiative.

#### MONEY LAUNDERING AND FINANCIAL INVESTIGATIONS

The law enforcement effort recognizes that money is the linchpin of the operations of the international and domestic drug trafficking organizations. The flow of ill-gotten gains sustains criminal operations by providing them with profits and a constant source of capital for paying expenses and buying more goods and services. We must seek in all investigations and prosecutions to destroy the ability of the traffickers to transfer, invest, and enjoy their illicit profits so that these criminal enterprises will be impaired and ultimately crippled. Halting money laundering must be an integral part of the overall strategy to dismantle the trafficking organizations.

The Departments of Treasury and Justice are reviewing the roles and missions of their respective agencies and developing an integrated plan to better address both domestic and international money laundering. This cooperative review will be completed in early 1994, and new guidance on roles and missions will subsequently be issued by the two Departments. In addition, the Department of the Treasury is working with the banking community to establish a more cooperative, streamlined approach toward reporting potential money laundering violations, including those arising out of narcotics transactions. The thrust of this cooperative effort is to reduce regulatory burdens placed on financial institutions and to focus those institutions on the reporting of significant potential money laundering violations. To better address the problem of money laundering through financial institutions other than banks (e.g., check cashers and money transmitters), the Administration is working closely with Congress to enact legislation to better identify suspect activities in these institutions.

A foundation of increased interdepartmental cooperation has been laid over the past few years by the Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) and the Drug Enforcement Administration's (DEA's) Multi-Agency Financial Investigations Center (MAFIC). FinCEN has become an important part of the effort to address a broad range of money laundering activities, including those related to illegal drug trafficking. FinCEN will continue to support Federal law enforcement by providing analytical support to financial investigations. The MAFIC has provided and will continue to improve operational coordination among agencies pursuing the kingpin organizations' money laundering services.

## DRUG INTELLIGENCE COORDINATION

As noted in the 1993 Interim Strategy, effective drug law enforcement requires that Federal agencies charged with drug suppression responsibilities be provided with the best possible intelligence. Central to this goal is that intelligence be shared between agencies in order for enforcement objectives to be achieved. The intelligence "turf battles" of the past must end, as must the costly duplication of intelligence gathering and processing. Neither is cost-effective or makes for efficient law enforcement practices. Particularly important to improving efficiency and removing impediments to cooperation is the assurance that law enforcement at all levels has access to full and timely intelligence about the activities of drug trafficking organizations. Here again the Federal Government has a special role and responsibility. Although it is not the sole repository of actionable drug law enforcement intelligence, the U.S. Government holds, by far, the greatest quantum of that intelligence. Because usable intelligence is crucial to the initiation and development of investigations, to the support of interdiction forces, and to the development of policies and strategies, it is incumbent on the Federal Government to ensure that its intelligence holdings are not merely current but are also meaningfully accessible to operational and headquarters activities. Moreover, cooperative efforts between Federal law enforcement agencies and State and local authorities will likewise have appropriate access to Federal drug law enforcement intelligence, especially intelligence on the inter-State and regional trafficking organizations and associated criminal enterprises.

In response to the Vice President's National Performance Review, the Attorney General has established the Office of Investigative Agencies Policies (OIAP); this office's initial task is to review and make recommendations about drug intelligence coordination and sharing within the Department of Justice among the Federal Bureau of Investigation (FBI), the DEA, INS, and the U.S. Marshals Service. OIAP also will work further to define the roles of the National Drug Intelligence Center so that it can coordinate and provide strategic organizational drug intelligence, as well as work with the El Paso Intelligence Center, so that it is better able to provide tactical drug intelligence. The Attorney General named the Director of the FBI to the position of Director of OIAP, and his report on improved intelligence operations and coordination is due in early 1994.

ONDCP will establish a forum to facilitate full drug intelligence coordination and cooperation among all Federal law enforcement agencies to achieve the most effective drug intelligence collection, analysis, and sharing.

In addition, the Defense and Foreign Intelligence Communities will continue to collect, analyze, and disseminate information concerning foreign aspects of drug trafficking. This type of information is vital to the development of effective international drug control programs and to the allocation of operational and other resources in support of our international partners. The foreign and defense intelligence communities are conducting a full review of their drug intelligence production, including analytic components, products,

user needs, and user satisfaction. As this review is completed, appropriate changes will be made to maximize the effectiveness of their intelligence support.

As part of the restructuring of the interdiction command and control system, the interdiction intelligence support structure also will be modified. Because of the consolidation of facilities and overall reduction of operational resources in the transit zones, it is essential that all relevant information be provided to the interdiction command and control centers in a timely manner and useable form. This will require some shifting of capabilities and the consolidation of existing communications and computer information.

#### MOBILIZING COMMUNITIES THROUGH ANTIDRUG COALITIONS

Ultimately, the solution to America's drug problem will be found at the grassroots level in neighborhoods and communities throughout the Nation. Individuals, families, neighbors, churches and synagogues, and civic and fraternal organizations must work together to forge efforts to address the underlying causes of social disintegration within their communities in order to prevent drug use. Law enforcement agencies must join with social service agencies to address the problem. The Nation must maintain its commitment to help these neighborhoods contain and reduce drug use and respond to the problems it creates. This Strategy proposes an important role for Federal agencies in creating successful community-based efforts. In addition to leveraging financial and other resource support, the Federal Government can create an atmosphere where successful community-based antidrug efforts are welcomed, fostered, and developed.

The most effective strategies for preventing drug use and keeping drugs out of neighborhoods and schools are those that mobilize all elements of a community through coalitions or partnerships. Community coalitions, such as those sponsored by the Department of Health and Human Services, establish and sustain a strong partnership among businesses, schools, religious groups, social services organizations, law enforcement, the media, and community residents to help rid the neighborhood of drug-associated violence.

These coalitions also provide an excellent vehicle (1) for continuing communication between police departments and local communities and (2) in support of efforts to establish community policing programs. Once the required mutual trust is established between the community and the police department, the benefits of such programs are both mutual and cumulative. Police receive more complete and timely information on crimes and criminals, a sense of community purpose and well-being is engendered, and the community rids itself of those who would intimidate and harm it. The Strategy will expand the number of such coalitions, targeting those neighborhoods hardest hit by drug use and its related crime and violence.<sup>42</sup>

<sup>42</sup> Additionally, the Departments of Health and Human Services, Education, Justice, and Housing and Urban Development will collaborate to review recent research and grantee experience to identify and understand those protective and resiliency factors that lessen the risk of drug use. The results of this review will be reported to the Nation and will be used to revise the awarding of all existing research grants as appropriate and to guide additional research.

## EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES PROGRAM

This initiative, which was enacted as part of the President's economic recovery plan, reflects a long-term commitment to community-led programming. Targeting the most disadvantaged urban and rural areas—communities often hit hardest by drug abuse and drug-related crime—the Empowerment Zones and Enterprise Communities program will designate up to 104 areas that meet certain poverty and distress criteria and prepare strategic plans for revitalization. As part of the strategic planning process, communities will have to address the level of drug abuse and drug-related activity in their communities through the expansion of drug treatment services, drug law enforcement initiatives, and community-based drug abuse education and prevention programs. Lessons learned from this effort will be incorporated into other Federal programs to inspire Americans to work together to revitalize their communities.

### V. FOCUSING ON SOURCE COUNTRIES

The reduction of drug use requires the United States to have a strong international counternarcotics strategy. The problem of international drug trafficking is increasing, and foreign narcotics syndicates continue to make the United States their primary target. International drug trafficking affects the United States, bringing crime to the streets, violence to communities, and drug abuse to towns and cities. These assaults on health and safety will continue to affect the security and undermine the welfare of the people of the United States. If drug production and trafficking are left unchallenged at their source, they will overwhelm the Nation's ability to respond to the drug threat at home.

The global drug trade affects America's security and welfare in other important ways. Rich, violent, and powerful drug syndicates pose a growing and fundamental threat to fragile democracies and their economic growth. In these countries, drug-related corruption and crime undermine public confidence in governmental democratic institutions. Using their resources and power to corrupt and intimidate, these drug syndicates can virtually destroy public safety organizations, paralyze judicial institutions, ruin banking and other key international businesses, and gain influence at the highest levels of government. Recent examples of drug-related violence, corruption, and political upheavals in countries as diverse as Russia and Peru demonstrate how these threats can affect vulnerable democracies around the world.

Global economic interests are compromised by the movement of billions of dollars of illicit drug money around the world yearly. This money flow creates unfair competition for honest businesses and can result in severe misallocation of resources toward unproductive ends in rich and poor countries. In addition, this flow can severely distort economic planning, particularly in weak economies that are struggling to grow, and fosters global inflation. In addi-

tion, drug production and processing in Asia, the Andes, and elsewhere are causing serious environmental damage.<sup>43</sup>

Domestic and foreign antidrug initiatives must be complementary. The national counternarcotics strategy is twofold: (1) to support the domestic objectives of reducing the availability and use of drugs and (2) to respond to the threat trafficking poses to the broader foreign policy objectives of protecting democracy, creating sustainable economic development, and protecting the global environment.

These remain daunting challenges; however, there are vulnerabilities that can be exploited through new policy initiatives. For example, the growth of democracy and free-market economies presents new international narcotics control opportunities that did not exist a few years ago. The United States finds that democratic, market-oriented governments are much easier to work with and more willing to cooperate with the international community in a common effort against the illicit drug industry. This allows for greater international cooperation against the drug trade and allows for the development of more sophisticated and comprehensive strategies to reduce both the incentive and capacity for international narcotics trafficking.

#### SHIFT IN INTERNATIONAL DRUG STRATEGY FOCUS

The National Security Council last year directed a comprehensive interagency assessment of the international narcotics challenge and the Administration's response to it. This assessment was further framed by the need to examine the foreign counternarcotics goals and objectives. In light of tight funding, programs that were working and were cost-effective were kept over others that were too costly or ineffective and were not consistent with the international strategy goals and objectives.

The 7-month review reaffirmed the complexities involved in attacking the international narcotics problem and concluded that the past reliance on an interdiction-based strategy was too narrow and costly to address the full range of threats posed by drug trafficking. The review determined that a shift was necessary from a strategy predominately based on interdiction to a three-pronged strategy that emphasizes the following: (1) assisting institutions of nations that show the political will to combat narcotrafficking, (2) destroying the narcotrafficking organizations, and (3) interdicting narcotrafficking in both source and transit countries. Elements of the international strategy include the following items:

- Placing greater emphasis on building and strengthening international cooperation against narcotics production, trafficking, and use—particularly in source countries. The United States will assist those nations that have the political will to fight the illegal drug trade. Bilateral and multilateral programs to enhance judicial reform, the development of competent and honest law enforcement and judicial and penal institutions, and the control of money laundering and essential and precursor

<sup>43</sup> Slash-and-burn coca and opium cultivation destroys hundreds of thousands of acres of rain forest every year, and the dumping of millions of gallons of the toxic chemicals used to make cocaine and heroin pollutes river systems and ground cover at an alarming rate.

chemicals will be supported. Trade and other economic support incentives will be used to create alternatives to narcotics production and trafficking to increase the resources host nations can apply to drug control. Further, the United States will take advantage of the increasing worldwide concern about the narcotics problem to get the international community and multilateral organizations more involved in international drug control. Traditional participants, such as the United Nations Drug Control Program (UNDCP) and the Organization of American States, as well as other organizations, such as the Financial Action Task Force and the Dublin Group, will be encouraged to become more involved in promoting judicial reform and enhancement, demand reduction, public awareness, community mobilization, training, and economic alternatives.

- Assisting other nations in attacking the drug trade by destroying narcotrafficking organizations. The United States will expand and support international efforts to arrest and convict the leadership of narcotrafficking organizations. It also will support international efforts to collect information on all aspects of these organizations—finance, production, processing, transportation, and distribution—and create and enforce the laws necessary to attack these targets and to prosecute and convict the organizations' leaders. The Strategy will pursue sustainable development programs in cooperating source countries to promote viable economic alternatives to illicit drug production and trafficking. Finally, the Administration will engage multilateral development banks and international financial institutions in support of sustainable development aimed at creating permanent economic alternatives to drug production and trafficking.
- Ensuring a focused and flexible approach to reduce the supply of illicit drugs in the United States. Interdiction will remain an important element of the Strategy. Interdiction disrupts the traffickers' use of preferred routes and methods, increases their operating costs and level of risk, and generates important information for other law enforcement operations. It is, however, an expensive high technology endeavor, and its effectiveness has been undercut by increased drug production and the continued high profitability of the trade. The strategy is to gradually shift the focus of operations—particularly with regard to cocaine—from transit zones to source countries. Agencies responsible for interdiction activities will use their assets more efficiently (through increased host nation cooperation and better operational planning) to detect, monitor, and apprehend drug traffickers. However, these agencies will maintain vigilance and flexibility in the transit zones to augment and adjust interdiction efforts in response to new or changing trafficking patterns.

This new approach to international programs will enable source countries to shoulder greater responsibility for the counternarcotics effort in their countries and in their regions. Focusing on the source countries reflects the need to intensify efforts against the leadership of the drug syndicates and to apply available resources where the trade is more confined and potentially more vulnerable.

The political, economic, and social consequences of drug trafficking also are likely to be most severe in drug producing countries. Meanwhile, in those countries where antinarcotics political will and commitment remain weak, diplomatic and other cost-effective initiatives will continue to strengthen their will to combat narcotics production and trafficking.

Collectively these objectives reflect the Administration's intention to continue to lead the international antidrug effort. It is in the national interest to maintain this role, but the assistance offered to other countries will no longer be unconditional. The United States will work closely with those countries that demonstrate the political will and commitment to undertake serious counternarcotics programs. However, those drug producing and trafficking countries that do not make an effort will face increasingly serious economic and other sanctions, including more aggressive use of the congressionally mandated certification process that conditions economic and military assistance on counternarcotics performance.

The President has called for stricter coordination, oversight, and accountability in the implementation of international counternarcotics policy. Further, he has granted new and greater authorities to the Director of the Office of National Drug Control Policy to oversee and provide direction to international drug control efforts, including the appointment of an interdiction coordinator to oversee all U.S. interdiction operations from source countries to the U.S. border.

#### DRUG-SPECIFIC APPROACHES

Although general global policy is framed by the principles outlined above, implementation will be tailored to respond to the distinctly different challenges posed by the cocaine and heroin trades. Cocaine is a bigger and more dangerous threat to the United States. Production is largely limited to three countries that have a long record of counternarcotics relations with the United States (see Exhibit 5-1). Most of the cocaine is smuggled to the United States through clandestine air and sea shipments (see Exhibit 5-2). By contrast, opium and heroin production are dispersed widely around the world, often in countries where the United States has little influence and in areas where even the central governments have little or no control. Moreover, the United States consumes only a small share of total heroin production. Most of the trade serves large opiate markets in Europe, Asia, and elsewhere. These differences affect the type of support the United States will seek from other donors, what can be accomplished in source countries, how trafficking organizations can be pursued, and how interdiction efforts can be better targeted.

*The Cocaine Strategy.* Drug trafficking organizations continue to target the U.S. drug market effectively, despite the unprecedented international law enforcement pressure that they face. Latin American producers are the sole suppliers of cocaine to the United States, and they remain intent on meeting the demands of this, their most profitable, market. Selected aspects of the cocaine threat include the following:



- Coca leaf production is sufficient to refine more than 1,000 metric tons of cocaine annually. The United States consumes approximately 300 metric tons of cocaine a year and significant amounts are seized and destroyed. For example, about 338 metric tons were seized by U.S. and foreign law enforcement organizations in 1992. Any amount of the drug remaining after U.S. consumption and worldwide seizures is sent to Europe and other markets, has been lost in transit, or has been consumed in the transit countries.
- Powerful cocaine syndicates, buttressed by enormous profits, rely heavily on corruption to protect their operations. This undermines the effectiveness and credibility of all democratic institutions, including the judiciary, police, and military.
- Trafficker use of intimidation and violence in their host countries—especially in Colombia, but increasingly in other countries such as Mexico—creates an atmosphere of public insecurity and threatens the safety of the nation's citizens as well as U.S. citizens who reside there.
- Collusion of Latin American drug traffickers with foreign criminal organizations and insurgents weakens private institutions as well. Trafficker penetration of banking, shipping, media, and other institutions erodes the social fabric of their countries and dampens long-term economic development. •

These and other aspects of the cocaine threat complicate U.S. efforts to foster antidrug cooperation. They often give added impetus to calls by pressure groups for extralegal political change, as has occurred already in Guatemala and Peru. If the power of the illegal drug trade is not curtailed, traffickers can gain virtually unobstructed influence at the highest levels of government, as they did over a decade ago in Bolivia and more recently in Panama.

The Cocaine Strategy focuses on the growing and processing areas of the source countries. This approach (1) responds to the evidence that patterns of drug production and flow are changing and that a comprehensive regional approach is essential and (2) reflects the need to target the limited resources on areas where they can have the greatest effect. From a tactical standpoint, antidrug efforts in the source countries should provide the best opportunities to eradicate production, arrest drug kingpins and destroy their organizations, and interdict drug flow.

While commitment and performance in the source countries—Bolivia, Colombia, and Peru—have differed widely, all have made progress and continue to improve their efforts. Colombia has manifested strong political will, despite the high price it is paying in violence and loss of life for taking on the drug cartels. Moreover, Colombia has made good use of U.S. counternarcotics support, spending 10 counternarcotics dollars of its own for every dollar of counternarcotics assistance received. Over the past 4 years, Colombia has reformed its judicial system and interdiction capabilities. With the help of U.S. investigative agencies and prosecutors, Colombia has greatly improved its investigative and prosecutive capabilities and has successfully dismantled the Medellin cartel. The Cali cartel, meanwhile, has taken over most of Medellin's trade and is now the world's dominant source of cocaine. It is imperative that

Colombia keep up the pressure on the cocaine trade by intensifying its attack on this organization.

The United States will continue to provide counternarcotics support to Colombia and to encourage continued cooperation as long as Colombia demonstrates strong political will against Cali and the other major cartels and all their criminal activities. The United States will encourage Colombia to continue judicial reform; law enforcement training; poppy and coca eradication; antikingpin operations; and land, maritime, and air interdiction.

Bolivia has made considerable progress in developing its counterdrug capabilities. Joint investigations with the Drug Enforcement Administration led to the dismantling of four significant drug trafficking organizations in 1993. U.S. Government-provided counternarcotics assistance has strengthened Bolivian democratic institutions, contributing to 12 years of civilian democratic rule.

President De Lozada, elected in 1993, has vowed to eliminate all illicit, nontraditional coca cultivation in Bolivia and is looking for measures that are faster and less economically and politically painful than past efforts. Bolivia has promoted sustainable development as the best means to eliminate coca cultivation permanently. While new initiatives are being developed, Bolivia needs to reinvigorate its eradication program.

The United States will continue to work closely with Bolivia to improve its counterdrug performance, focusing on coca eradication, sustained economic development, judicial reform, and adherence to international agreements on extradition of drug traffickers. Bolivia's counternarcotics forces have progressed to the point where they are able to unilaterally plan and conduct many of their operations.

Peru's record with respect to counternarcotics efforts has been as checkered as it has in other areas of the bilateral relationship. In no other country are the U.S. foreign policy objectives of democracy, human rights, counternarcotics, and economic development more closely integrated and interactive. After President Fujimori's dismissal of Peru's Supreme Court and legislature in April 1992, the United States suspended all bilateral assistance not related to counternarcotics efforts or humanitarian programs. Despite this, Peru not only has continued but has increased its efforts to interdict drugs and both essential and precursor chemicals.

In response to the movement of coca cultivation and processing to new areas, the strategy in Peru is to move support forces from the Santa Lucia Base in the Huallaga Valley. Accordingly, the Peruvian counternarcotics police will continue operations against traffickers, utilizing mobile teams and operating from existing municipal airports. This not only will make the Peruvian police more operationally responsive but also will reduce U.S. helicopter support costs by one half.

From a U.S. counterdrug perspective, Peru has great strategic significance. Peru alone produces enough coca to supply not only the United States market but also emerging markets in Europe and transit countries. In terms of leaf quality, climate, and available growing area, there are no known regions in the world that are comparable. Without Peru, the cocaine industry would be severely handicapped, and cocaine supplies and profits would topple. Unfortunately, given the important requirements for Peru also to

improve its record on human rights and its economy, it will be some time before the Peruvian Government will be in a position to dislodge the traffickers from its territory and replace coca cultivation with suitable alternatives.

Peru must begin to develop a long-term strategy that will reduce its coca cultivation. This Strategy provides enough resources to sustain a U.S. law enforcement presence east of the Andes, to help Peru further develop its interdiction capabilities, and to provide support for judicial reform and alternative development. This support will allow Peru to maintain pressure on the traffickers and to prevent them from establishing permanent sanctuaries inside the country—something that is very much in Peru's national security interest.

Mexico has strong political will and has significantly increased its counternarcotics efforts in recent years. Mexico works very closely with the United States in drug control. Last year the Mexican Government seized 38 metric tons of cocaine and eradicated 6,900 hectares of poppy and 12,100 hectares of cannabis. Intelligence estimates suggest that as much as 70 percent of the cocaine entering the United States crosses the 2,000-mile border with Mexico. This area is very important to cartel drug smuggling and will likely remain so for the foreseeable future.

Mexico is the only Latin American country to take over funding responsibility for its entire counter-drug program. Accordingly, U.S. counternarcotics assistance has dropped from approximately \$20 million a year to just over \$1 million. President Salinas is now institutionalizing his Administration's counterdrug effort by such actions as establishing the National Institute for Drug Control to oversee the implementation of Mexico's counternarcotics program. The United States will continue to strengthen its counterdrug partnership with Mexico and will provide them whatever appropriate technical assistance, law enforcement training, and investigative support they require. For example, Mexico's drug interdiction program (the Northern Border Response Force) relies on U.S. detection and monitoring information to conduct its interdiction operations, and this support will continue.

In the past the United States has provided limited counterdrug assistance to Brazil, Ecuador, and Venezuela, which—because of their proximity to the source countries—are commonly referred to as "spill-over" countries. The importance of each is now growing as the traffickers expand their smuggling and money-laundering operations into Ecuador and Venezuela and as Brazil increases in importance as a major supplier of precursor and essential chemicals. United States policy must take cognizance of these changes and seize any opportunities they may present to increase commitment to counternarcotics activities.

*The Heroin Strategy.* The heroin threat requires a significantly different approach than that described for cocaine. The heroin industry is much more decentralized, diversified, and difficult to collect intelligence on and conduct law enforcement operations against. From a global perspective, heroin may pose a greater long-term threat to the international community than cocaine. Consequently, the need to give heroin serious attention goes beyond do-

mestic concerns of a potential heroin epidemic to larger concerns about international political stability.

In many countries opium and heroin are the drugs of choice among users of illicit drugs, and production of each is up dramatically. Today at least 11 countries produce a total of 3,700 tons of illicit opium for the international drug markets—more than double the production a decade ago. Heroin refining occurs in nearly all producing countries, as well as in some transit and consumer countries. While Southeast Asia remains the largest producer and supplier to the U.S. illicit drug market, U.S. heroin market requirements could easily be met by Western Hemisphere sources.<sup>44</sup>

The demise of the Soviet empire has significantly changed the international political and geographical landscape, and the drug industry is responding to an array of new business and criminal opportunities. Traffickers now use new smuggling routes that traverse the poorly guarded borders of the Caucasus, Central Asia, and Eastern Europe, where local law enforcement is poorly staffed and ill equipped to oppose them. In some cases the "new" routes are in fact old smuggling highways that until recently were blocked artificially by the Soviet Union or by regional conflicts, as in the Balkans.

Given the decentralization, breadth, and diversity of the heroin industry, there is no practical alternative to a multidimensional and global approach to the heroin problem. It is clear that the Heroin Strategy must focus on promoting greater mobilization of international cooperation and action against all aspects of the heroin drug trade. A source-country approach is not feasible, since poppies are too easily and profitably grown throughout the world. No single country or group of countries has the resources, knowledge, or worldwide reach to address this complex challenge. The international community must unite to deny the illicit drug industry the ability to expand its criminal empires and undermine national security interests. Such a strategy requires leadership and long-term political commitment rather than massive funding.

In many major heroin source and transit countries, the United States has important national security interests, that go beyond drugs; however, to pursue these other interests, the drug industry and its criminal activities must be dealt with as well. The U.S. Heroin Strategy will carefully target those countries and regions that pose the most direct heroin threat to the domestic health and national security interests of the United States and act in light of existing relations.

Accordingly, diplomatic efforts will be increased to influence Burma's neighbors—especially China and Thailand—to exert more narcotics control pressure on the Government of Burma by emphasizing to them the regional threat posed by Burma's heroin trade. Furthermore, the United States has increased support to the UNDCP's Sub-Regional Project, working with Burma and its neighbors to reduce opium production and enhance regional cooperation.

The Administration is working closely with overseas partners to develop detailed information on the worldwide narcotics trade to

<sup>44</sup>The two largest growing areas are Afghanistan and Burma, countries where the United States has little political influence or physical access. Opium poppy cultivated in Colombia could be sufficient to supply the heroin demand for the United States.

exploit vulnerabilities identified inside and outside the respective countries. Accordingly, the United States will continue to provide countries with established judicial institutions the information, evidence, and other operational support they need to take aggressive legal action against major traffickers and corrupt government officials.

China and Thailand are being encouraged to conduct drug interdiction operations along the border between Burma and Thailand, at major ports, and wherever such operations can enhance the collection of evidence on the organizations and their leaders. And U.S. diplomatic and investigative initiatives will be expanded in emerging transit countries of the region, such as Cambodia and Vietnam.

Colombia presents a major new heroin supply threat to the United States. The cartels have all the prerequisites to capture a large part of the U.S. domestic heroin market: They have sufficient poppy in cultivation to meet U.S. supply needs, their product quality is high, and their retailing capabilities are well developed. Given these advantages and their closer proximity to the United States, the cartels can provide stiff competition to Asian traffickers. The cartels already are selling very pure, high-quality heroin in the United States at a cheaper price than their Asian counterparts. To counter this threat, the United States will provide maximum support to Colombia's efforts to eradicate poppy and to interdict heroin heading for this country.

In view of Afghanistan's importance as a major opium source country, the United States will establish the principle that assistance to major drug-producing areas in Afghanistan should be in the context of a plan to reduce opium growing and processing. Further, the United States will continue to encourage Pakistan to make a serious effort to reduce heroin and opium production, and increase its investigative efforts on high-level trafficking. The U.S. will provide appropriate judicial training and other technical assistance necessary to enhance Pakistan's capability to successfully prosecute, convict, or extradite major traffickers.

Changes in worldwide opium production and trafficking patterns are increasing Turkey's importance to the drug industry for processing and transshipment and as a clearinghouse linking the Southwest Asian trade to European, Middle Eastern, and North American markets. U.S. policy will continue (1) to promote Turkish political will and commitment to improve its investigative and prosecutorial capabilities, (2) to target the country's well-established drug syndicates, and (3) to assist with the technical and operational expertise required to undertake this task. The United States will offer similar assistance to Asian, African, and Latin American transit countries that demonstrate the requisite political will to reform and enhance their investigative capabilities.

Since Europe is one of the largest world markets for heroin, the United States will encourage European and other major consumer countries to take the lead in thwarting heroin production and trafficking in and through Eastern Europe and the Commonwealth of Independent States, providing these countries with badly needed financial and material antinarcotics assistance. U.S. counternarcotics assistance for the Commonwealth will be provided through UNDCP, along with limited direct assistance for building

indigenous law enforcement, demand reduction, and money-laundering enforcement capabilities.

#### INTERNATIONAL COOPERATION OBJECTIVES

Boosting international awareness of the illicit drug threat and strengthening the political will to combat it are principal Strategy objectives. Affected countries are encouraged to invest resources in counternarcotics public awareness, demand reduction, and training programs that will build public support and strengthen the political will for implementing counternarcotics programs. Research institutions in particular will be encouraged to develop the data necessary to provide a foundation for monitoring the status of drug use on a continuous basis.

Cocaine, opium, and heroin production are connected to other critical national concerns such as democracy, refugees, and the environment. The United States will seek to raise awareness among all nations that effective drug control measures are in the countries' interest to implement and that they need to undertake the necessary diplomatic and law enforcement initiatives.

The United States will increase efforts to combat international drug-money laundering and the diversion of chemicals to support drug processing by encouraging more members of the international community to pass tougher legislation concerning money laundering, precursor chemical and currency control, and asset seizure and forfeiture. Those countries that have adequate laws in these areas will be encouraged to enforce them more stringently.

#### VI. STRATEGY GOALS AND OBJECTIVES

The 1994 National Drug Control Strategy has one overarching goal—the reduction of drug use. This goal was established by Section 1005 of the Anti-Drug Abuse Act of 1988, which requires that the National Drug Control Strategy include “comprehensive, research-based, long-range goals for reducing drug abuse ... [and] short-term measurable objectives which the Director [of the Office of National Drug Control Policy (ONDCP)] determines may be realistically achieved in the 2-year period beginning on the date of submission of the Strategy.” Section 1005 of the act also requires that each Strategy include “a complete list of goals, objectives, and priorities for supply reduction and for demand reduction.” According to the Act, demand reduction includes drug use education, prevention, treatment, research, and rehabilitation; and supply reduction includes any activity to reduce the supply of drugs in the United States and abroad, including international drug control, foreign and domestic intelligence, interdiction (in the border and transit zones and in source countries), and domestic law enforcement.<sup>45</sup>

Successful national policy requires the development of supply reduction and demand reduction programs that contribute to the overall goal of reducing drug use and subsequent damage to individuals, families, and communities, as well as reducing the damage caused by drug trafficking and drug-related crime and violence. The 1993 Interim Strategy provided a general plan for the Nation

<sup>45</sup> The division of programs into “supply reduction” and “demand reduction” is somewhat artificial; some programs (such as community policing) do not fit easily into either category.

to reduce drug use and its consequences to users and society; the goals and objectives delineated below provide the means for objective measurement of the success of this plan.

*Past Strategies.* Past strategies placed special emphasis on the reduction of drug use by casual or intermittent drug users—that is, those users whose frequency of use does not result in problems or behaviors that require some type of treatment. This emphasis was understandable: The National Household Survey on Drug Abuse (NHSDA) reported almost 6 million casual or intermittent cocaine users in the mid-1980's (compared with 1.3 million in 1992). The early strategies emphasized programs that targeted these users to reduce their numbers and prevent many of them from passage into hardcore drug use.<sup>46</sup> The early strategies also included some goals on the health consequences of hardcore drug use by measuring trends in the number of hospital emergency room admissions, as well as goals pertaining to illicit drug availability.

Three principal surveys were used to identify reductions in overall drug use, adolescent drug use, use of specific drugs (e.g., cocaine and marijuana), hospital emergency room mentions, and illegal drug-use approval rates of high school seniors.<sup>47</sup> Progress in reducing drug availability was tracked using perceptions of drug availability from the Monitoring the Future (MTF) Survey.

The 1994 Strategy expands the focus away from casual and intermittent drug use and places it more appropriately on the most difficult and problematic drug-using population—hardcore drug users. This shift recognizes that drug dependence is a chronic, relapsing disorder requiring specialized treatment and provision for aftercare. The Strategy also recognizes that prevention programs must place special emphasis on high-risk populations to deter new, high levels of first-time drug use and that prevention efforts also are needed to keep new users from becoming addicted.

With respect to supply reduction, the 1994 Strategy significantly changes that program's emphasis. Past practice emphasized programs that attacked the flow of drugs essentially in all places at all times: in the source countries, in the transit zones, along the borders of the United States, and within communities. The Strategy changes the emphasis from the past practice of concentrating largely on stopping narcotics shipments to a more evenly distributed effort across four program lines: (1) assisting nations that demonstrate the will to address the problems of drug use and trafficking, (2) destroying domestic and international drug trafficking organizations, (3) exercising more selective and flexible interdiction programs, and (4) enhancing the quality of traditional investigative

<sup>46</sup>The September 1989 National Drug Control Strategy stated, "[T]he highest priority of our drug policy must be a stubborn determination ... to reduce the overall level of drug use, nationwide ...." (p. 8).

<sup>47</sup>These surveys include NHSDA, the University of Michigan's Monitoring the Future (MTF) Survey, and the Drug Abuse Warning Network (DAWN). The 1992 National Drug Control Strategy used the NHSDA to establish the following measures as goals: current (past 30-day) overall drug use; current adolescent drug use; occasional (past year but less often than monthly) drug use; frequent (weekly) drug use; current adolescent cocaine use; drug availability (ease to obtain) for cocaine, heroin, marijuana, PCP (phencyclidine), and LSD (lysergic acid diethylamide); and current adolescent alcohol use. DAWN was used to establish one goal related to the health consequences of drug use: reducing drug-related emergencies reported in hospital emergency rooms. The MTF Survey was used to establish goals on drug use attitudes regarding seniors not disapproving of cocaine use (under two frequency-of-use categories) and of marijuana use.

and prosecutorial activities while furthering new advances in policing, such as by using community policing to deter criminal activity.

This shift in the Strategy's program emphasis means that the goals used in the past must be expanded. With respect to demand reduction programs, the Strategy will continue to include goals reflecting the need to reduce casual or intermittent drug use. However, additional goals will be added to include the reduction of hardcore drug use and its consequences to the user and society.

On the supply side, past strategies rightfully avoided goals that reflected seizures or arrests; these were recognized as poor substitutes for goals measuring drug availability. While measuring drug availability is not an unreasonable indicator of overall progress, it does not encompass the totality of our national efforts or reflect the true impact of law enforcement efforts on reducing illicit drug consumption and its consequences to users and society. Statistics on the number of arrests or the total amount of seized assets say little about whether the presence of illicit drugs in schools has decreased or whether inner-city communities plagued by drug-related crime and violence are any safer. It is therefore inappropriate to evaluate the success of the Nation's overall drug control strategy using such limited indicators.

*Special Issues Surrounding New Strategy Goals.* As previously stated, by law the Strategy has as its overarching goal the reduction of drug use and its consequences to users and society. All supply reduction and demand reduction activities are dedicated to satisfying this one goal. However, this focus does not provide an adequate way to measure progress in the overall drug program effort because it oversimplifies the nature of the problem.

Another issue that needs to be addressed is how to deal with the problems of alcohol and tobacco use, which account for the bulk of substance abuse-related costs (i.e., health-related costs, deaths, crime, and other social costs). ONDCP's statutory mandate is limited to the problems of controlled substances; it can address alcohol and tobacco use only when such use is illegal. This means that the problems of underage drinking and tobacco use are legitimate drug policy concerns, but the broader issue of substance abuse in general—defined to include alcohol and tobacco problems—is beyond ONDCP's statutory mission, although it is not beyond the mandate of the Federal Government. Indeed, approaches to solving drug problems do not occur in isolation; to be successful, they must be linked to efforts to curb alcohol and tobacco use. This Strategy addresses illicit drug use but recognizes the substantial and important contribution of its programs to the reduction of alcohol and tobacco consumption. Accomplishing the reduction of the deleterious use of alcohol and tobacco is under the purview of the U.S. Departments of Health and Human Services (HHS) and Education.

A more generic issue concerns the problem of measurement. The ability to track progress in achieving goals and objectives depends greatly on the quality, timeliness, and relevance of information on drug use and its consequences to users and society. The Strategy's mandate is to reduce drug use, but surveys describing drug prevalence or consumption of illicit drugs all have limitations. Drug use is not easy; drug use is illegal and not all users readily offer information about themselves and their drug habits. Existing surveys



do not effectively measure drug use by the most serious drug user—the hardcore drug user.<sup>48</sup> Moreover, some of these surveys have been criticized as inadequate on other grounds.<sup>49</sup> To overcome these shortcomings, ONDCP offers the following plan:

- First, ONDCP will convene the Research, Data, and Evaluation (RD&E) Committee (see Appendix A), which will, among other things, identify shortcomings in existing drug-related data collection systems and recommend steps to improve drug data collection for policy and Strategy implementation purposes.
- Second, ONDCP will work with agencies and independent groups involved in gathering drug-related information to assess the steps that can be taken to use drug data more effectively for national drug policy development and implementation.
- Third, Federal agencies will work with State and local agencies to promulgate uniform standards for reporting drug use and consequence data, as well as law enforcement data.
- Fourth, working with other Federal agencies, ONDCP will develop and implement a plan to more effectively disseminate Federal drug use and consequence data.

The objective of this effort will be threefold: (1) to improve existing measures to assess progress in reducing drug use and its consequences to users and society, (2) to develop measures to evaluate major program components of the Strategy, and (3) to provide more relevant and timely information for policymakers. In the interim, and within reason, existing surveys will continue to provide measures to monitor progress in achieving the Strategy goals and objectives delineated below. Exhibit 6-1 summarizes the goals for the 1994 National Drug Control Strategy.

#### 1994 STRATEGY GOALS AND 2-YEAR OBJECTIVES<sup>50</sup>

The 1993 Interim Strategy provided the blueprint for action against the Nation's drug problem, with the Federal Government coordinating with State and local governments as well as with private and public sector treatment and prevention programs. The success of the Strategy will depend, in large measure, on cooperation and collaboration with drug control programs provided by all public and private sector entities. Furthermore, the Strategy's success depends on how closely it is linked to other Federal programs

<sup>48</sup> The difficulty in measuring hardcore drug use is substantial. Hardcore drug users are a "rare group"—that is, they are a very small proportion of the U.S. population. Any general population survey, like NHSDA, has trouble finding enough hardcore users to provide a large enough sample to result in adequate estimates. This is why ONDCP and the Substance Abuse and Mental Health Services Administration are working together to design an alternative estimation procedure.

<sup>49</sup> For example, see Drug Use Measurement: Strengths, Limitations, and Recommendations for Improvement, GAO/PEMD-93-18, June 1993.

<sup>50</sup> As part of its consultation process, ONDCP brought together over two-dozen expert analysts within the Federal Government to provide advice on formulating goals, objectives, and measures for the 1994 National Drug Control Strategy. Participants were drawn from a wide spectrum of agencies, including the Center for Substance Abuse Prevention, the Center for Substance Abuse Treatment, the National Center for Health Statistics, the Department of Education, the Department of State, the Drug Enforcement Administration, the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, the Bureau of Justice Statistics, the National Center on Child Abuse and Neglect, and the Office of Applied Studies in the Substance Abuse and Mental Health Services Administration. This effort was supplemented by other input received as part of the overall Strategy consultation.

that include a substance abuse control component, such as the Public Health Service's Healthy People 2000, the Department of Education's programs addressing the National Education Goals, the Administration's Empowerment Zone and Enterprise Communities Program, the Department of Housing and Urban Development's (HUD's) proposed Community Partnership Against Crime, and the Administration's National Service program.

The national goal of reducing drug use has seen the greatest progress in reducing consumption among casual users and less progress with hardcore drug users. The focus must be more on hardcore drug users, including special populations that warrant additional attention, such as low income citizens, adults and adolescents in contact with the criminal justice system, pregnant women, and women with dependent children. Also equally important is the need for outreach to those hardcore users who have yet to encounter the justice system.

Most hardcore users regularly use more than one drug and present complex social, health, and mental health problems, in conjunction with their drug use.<sup>51</sup> Since past efforts to reduce casual drug use were neither quick nor easy, efforts to reduce polydrug use can be expected to follow a similarly difficult path. This must be clearly understood. Expectations of an easy solution to the drug problem, particularly hardcore use, are unreasonable. The 1994 National Drug Control Strategy establishes realistic, long-term goals for achieving success against hardcore and casual drug use; in the short term, successive 2-year objectives established for each goal present the most reasonable means to track progress. In some cases, the goals established here are process oriented, rather than outcome oriented, because adequate outcome measures do not exist. These goals reflect the immediate need (1) to improve monitoring and oversight of existing program delivery and (2) to promote the number of certain specialized programs and add to the capacity of existing programs to support many of the long-term goals.

#### OVERARCHING GOAL

The ultimate measure of the Strategy's effectiveness will be determined by the extent of reductions in drug use, as measured both by the number of users—both casual and heavy—and by the amount of drugs they consume.

Goal 1: Reduce the number of drug users in America.

#### 1996 Objectives

- Reduce the number of hardcore users (defined as those who use illicit drugs at least weekly and exhibit behavioral and societal problems stemming from their drug use) through drug treatment at an average annual rate of 5 percent.<sup>52</sup>
- Reduce the adverse health and social consequences of illicit drug use. Progress will be measured using such measures as

<sup>51</sup> Kessler, R., et al., "Lifetime and 12-Month Prevalence of DSM-III-R Psychiatric Disorders in the United States, Results from the National Comorbidity Survey," *Archives of General Psychiatry*, 1994.

<sup>52</sup> ONDCP and HHS are working on a project to develop estimates of the size, location, and characteristics of the hardcore drug user population. This project will provide the measure of progress in achieving this objective. In the interim, ONDCP will continue to rely on existing data.

- drug-related cases in hospital emergency rooms, drug use among arrestees, and the number of infants exposed in utero.
- Reduce the number of casual drug users [defined to include individuals who (1) experiment with drug use, (2) use drugs occasionally, or (3) use drugs on a past-month basis] at an average rate of 5 percent. Progress will be measured using surveys such as NHSDA and the MTF Survey.

#### DOMESTIC PROGRAM GOALS AND OBJECTIVES

A reduction in drug use requires an encompassing strategy of comprehensive treatment; collaboration among the various health, social service, and mental health providers that may have contact with clients who use drugs; and related services, such as rehabilitation and rehabilitation to prevent users from relapsing into a life of drug addiction. Such efforts, when properly designed, mitigate the hopelessness that surrounds drug use. Additionally, such efforts also must be complemented by effective prevention strategies, particularly ones that are community based, research driven, comprehensive, and coordinated. To be community based, prevention strategies must reflect local circumstances and develop from local values, culture, and experience. To be comprehensive, prevention strategies must include all relevant community domains, including (but not limited to) schools, parents, businesses, local law enforcement, religious institutions, and public housing authorities.<sup>53</sup> The strategies also must address the needs of individuals of all ages, races/ethnicities, and other backgrounds.

The 1994 Strategy's domestic program long-term goals address the problems caused by drug use to both individuals and society and present strategic, measurable objectives to address the problems of illicit drug use. In most cases, progress measures are identified for each objective. In those cases where no progress measure exists, ONDCP will task the relevant Federal agency to develop a measure or means to report on progress in achieving the stated objective by 1996.

**Goal 2: Expand treatment capacity and services and increase treatment effectiveness so that those who need treatment can receive it.** Target intensive treatment services for hardcore drug-using populations and special populations, including adults and adolescents in custody or under the supervision of the criminal justice system, pregnant women, and women with dependent children.

#### 1996 Objectives

- Increase the number of hardcore drug users in treatment by almost 140,000 per year beginning in Fiscal Year 1995. This will include both hardcore drug users in and outside of the criminal justice system.

<sup>53</sup> Results from prevention research identify promising clinical and educational practices that prevent the onset of drug use (primary prevention), interrupt progression into drug use, reduce the likelihood of relapse (secondary prevention), and ameliorate drug-related morbidity and social consequences. The National Institute on Drug Abuse's prevention research program includes risk appraisal and vulnerability research; controlled basic and applied intervention research; and research to understand the social, psychological, and environmental risk and protective factors, perceptions, and behaviors. This program also includes media and education research focused on public awareness, attitudes, and perceptions.

- Enact the first-ever guarantee of basic drug use treatment services as part of the President's Health Security Act. At a minimum, this will provide basic substance abuse treatment benefits to the more than 58 million Americans who have no coverage at all for some time each year.
- Use effective outreach and referral programs to facilitate early entry into drug treatment by adult and adolescent hardcore drug users who have yet to encounter the justice system. Progress will be measured using existing surveys of the treatment system.
- Provide drug treatment for adults in custody or under the supervision of the criminal justice system who have been identified as having drug problems. The Department of Justice (DOJ) will measure progress using existing surveys of the jail and prison populations.
- Provide treatment for heavy drug users (adults and youth) who come into contact with the justice system through traffic, domestic, family, divorce, and other civil venues. Progress measures will be developed through the RD&E Committee.
- Provide drug treatment for adolescents under the supervision of the court system or other youth service settings. DOJ will measure progress using surveys of the youth offender population.
- Increase the number or capacity of treatment programs that offer comprehensive drug treatment to women, especially mothers (pregnant and nonpregnant), and support services for their dependent children. Measures of progress include surveys such as the National Maternal Infant Health Survey, NHSDA, the National Drug and Alcoholism Treatment Unit Survey, and the Alcohol and Drug Services Survey.
- Increase the number of personnel trained in drug treatment, counseling, and prevention, particularly for those in the criminal justice system.

Goal 3: Reduce the burden on the health care system by reducing the spread of infectious disease related to drug use.

#### 1996 Objectives

- Monitor States that receive Substance Abuse Block Grant funding to ensure that they are in compliance with the law requiring HIV (human immunodeficiency virus) and tuberculosis screening of all clients. HHS will measure progress through the State plans required by the grant.
- Reduce the spread of infectious disease—including tuberculosis, HIV/AIDS (acquired immune deficiency syndrome), and sexually transmitted diseases—related to drug use. Progress will be measured principally by using existing Centers for Disease Control and Prevention data.
- Improve the linkage between treatment facilities and local departments of health and primary health care services by increasing the number of referrals between public health programs and treatment facilities. Progress measures will be developed by HHS.

Goal 4: Assist local communities in developing effective prevention programs.

### 1996 Objectives

- Work to ensure that all 9 Empowerment Zones and 95 Enterprise Communities address drug use and trafficking in their community-based empowerment plans over the next 2 years. HUD will be tasked with reporting on progress in achieving this objective.
- Double the number of community anti-drug coalitions by 1996 with at least half networked into area-wide or Statewide consortia. HHS will report on progress in achieving this objective.
- Increase prevention research and demonstrations in order to improve understanding of effective prevention strategies for drug use as well as risk and protective factors. HHS will be tasked with reporting on progress in achieving this objective.
- Strengthen the collection and dissemination of results from prevention research and evaluation to ensure that effective approaches are made widely available to communities. HHS will be tasked with reporting on progress in achieving this objective.
- Strengthen public awareness of the consequences of drug problems and support for community drug prevention and treatment approaches. ONDCP will work with drug control agencies on efforts involving the mass media, national voluntary organizations, and community-based groups.
- Provide prevention action standards and offer assessments to community prevention programs. HHS will publish the results of an extensive evaluation on prevention programs and provide assessment standards for individual programs.

Goal 5: Create safe and healthy environments in which children and adolescents can live, grow, learn, and develop.

### 1996 Objectives

- Reverse the recent increase in the prevalence of illicit drug use among students by 1996.
- Increase the number of schools providing education and recreation services in a safe, supervised setting after school, on weekends, and during vacation periods.
- Increase the number of community-based drug prevention programs, such as the Community Partnership Programs. HHS will be tasked with developing progress measures for this objective.
- Promote community policing in areas burdened with the problems of drug use and crime to enable communities to "take back the streets." DOJ will be tasked with developing progress measures for this objective.

Goal 6: Reduce the use of alcohol and tobacco products among underage youth.

### 1996 Objectives

- Ensure that antidrug prevention efforts target alcohol and tobacco use among underage youth, as well as the use of other illicit drugs, in order to reduce use. Progress will be measured using surveys such as NHSDA and MTF.
- Reverse the recent increase in the prevalence of tobacco and alcohol use among students by 1996. Progress will be measured using surveys such as NHSDA and MTF.

**Goal 7: Increase workplace safety and productivity by reducing drug use in the workplace.**

**1996 Objectives**

- Compile and disseminate standards and guidelines for Employee Assistance Programs (EAP's) to help employees with problem assessment and to provide referrals for treatment, counseling, and followup counseling to prevent recurrence of drug problems. HHS will report on progress in achieving this objective.
- Encourage employers, including small businesses, grantees, and contractors, to implement comprehensive drug-free workplace programs (1) that comprise clear, written policies against illicit drug use, (2) that educate employees and train supervisors about corporate policy concerning problems associated with drug use and workplace performance, and (3) that offer EAP's to assist employees in resisting drug use. The Small Business Administration will report on progress in achieving this objective.
- Continue to require Executive Branch agencies to adhere to drug-free workplace policies and programs. This means having an approved plan in place that spells out the agency policy, administrative procedures, and criteria for selection of Testing-Designated Positions. ONDCP will coordinate this effort.

**Goal 8: Strengthen linkages among the prevention, treatment, and criminal justice communities and other supportive social services, such as employment and training services.**

**1996 Objectives**

- Increase the number and/or capacity of Offender Management Programs, especially those that promote accountability among users. DOJ will be charged with developing progress measures.
- Call on Community Partnership Programs (1) to adopt early warning systems to alert the communities they serve of new drug use patterns and consequences and (2) to provide the necessary linkages to the health, prevention, vocational, treatment, and other followthrough services for children, youth, and families of drug users (particularly of hardcore drug users). HHS will develop model systems for use by individual Community Partnership Programs. These models will incorporate other existing linkage programs, such as Target Cities.

Domestic law enforcement program efforts also complement and support efforts to reduce illicit drug use. Local law enforcement efforts, supplemented and supported by Federal and State law enforcement efforts, must work to disrupt drug markets. A balanced law enforcement approach dictates a three-pronged strategy: (1) to reduce the flow of drugs to neighborhoods; (2) to prevent or minimize the damage to individuals, families, and communities caused by drug use, trafficking, and related violence; and (3) to expand the use and effectiveness of the criminal justice system to coerce abstinence and treatment, as well as to ensure appropriate followup and aftercare.

**Goal 9: Reduce domestic drug-related crime and violence.**

**1996 Objectives**

- Over the next 5 years, put 100,000 more police on the street to work with communities to reduce crime—a nationwide increase of 16 percent.
- Ban the manufacture, transfer, or possession of assault weapons.
- Empower communities to address the problems of drug use and related violence through community-based efforts, such as community policing. DOJ will be tasked with reporting on progress in achieving this objective.
- Augment the role of programs, such as the Community Partnership Programs, to include the problems of drug-related crime and violence, including related domestic violence, and increase understanding of the contribution of drug use to crime and violence by promoting research and evaluation of programs directed toward such linkages. HHS will be tasked with reporting on progress in achieving this objective.
- Ensure swift, certain, and appropriate punishment for drug offenders using an expanded number of drug courts or pretrial diversion alternatives in appropriate cases for first-time, non-violent, drug-using offenders. DOJ will be tasked with reporting on progress in achieving this objective.
- Expand and enhance drug abuse treatment efforts to address domestic violence issues. HHS will be tasked with reporting on progress in achieving this objective.
- Coordinate a comprehensive Federal, State, and local approach, employing combined task forces as appropriate, in order to ensure that all levels of the trafficking problem are vigorously attacked. DOJ will be tasked with reporting on progress in achieving this objective.
- Focus investigative and prosecutorial efforts against violent crime, including that related to drug trafficking, with a particular emphasis on cooperation and coordination among Federal, State, and local law enforcement agencies. DOJ will be tasked with reporting on progress in achieving this objective.

Goal 10: Reduce all domestic drug production and availability, and continue to target for investigation and prosecution those who illegally import, manufacture, and distribute dangerous drugs and who illegally divert pharmaceuticals and listed chemicals.

#### 1996 Objectives

- Disrupt, dismantle, and destroy major narcotics trafficking organizations by interdicting their illicit wares; arresting, convicting, and incarcerating their leaders, members, and associates; and seizing the means and fruits of their illicit activities. Progress will be measured by disruptions in availability of the major illicit drugs on the streets of the United State.<sup>54</sup>
- Better define the size and scope and work aggressively to suppress domestic marijuana production and trafficking.

Goal 11: Improve the efficiency of Federal drug law enforcement capabilities, including domestic interdiction and intelligence programs.

<sup>54</sup> DOJ will be given principal responsibility for reporting progress in this area. Measures of perceived availability, as monitored by HHS and the MTF Survey, also will be used to track progress in achieving this goal.

### 1996 Objectives

- Identify and eliminate areas of duplication and increase coordination of efforts among Federal law enforcement agencies and between Federal law enforcement agencies and their State and local counterparts. The Department of the Treasury and DOJ will be tasked with reporting on progress in achieving this objective.
- Identify and implement options, including science and technology options, to improve the effectiveness of law enforcement to stop the flow of drugs along the Southwest border. ONDCP will report on progress in identifying and introducing new technologies for detecting illicit drugs as one progress measure. The Department of the Treasury and DOJ will be tasked with reporting on progress in achieving this objective.
- Review and improve the structure of intelligence and communications to increase the accessibility, timeliness, and analysis of drug intelligence information to best meet the needs of law enforcement. Working with the intelligence community, the National Drug Intelligence Center will report on progress in achieving this objective.

### INTERNATIONAL PROGRAM GOALS AND OBJECTIVES

Drug use is not a victimless crime; its victims are everywhere. The victims of the seemingly insatiable demand for drugs include the citizens of this country as well as the citizens of countries around the world. The President has made it clear that the United States views the operations of international criminal narcotics organizations as a national security threat. Consequently, the Strategy directs support for those countries that have the political will to battle major narcotics trafficking organizations; calls for the destruction of those organizations; and mandates the continuation of the ability to conduct selected, responsive Federal interdiction efforts.

The 1994 National Drug Control Strategy establishes the following goals for international supply reduction. In most cases, progress measures have yet to be identified for each of the goals and objectives. The Counternarcotics Interagency Working Group (IWG) or the Interdiction Coordinator will report on progress in achieving each of these goals and objectives.

Goal 12: Strengthen international cooperation against narcotics production, trafficking, and use.

### 1996 Objectives

- Strengthen host nation counternarcotics institutions so that they can conduct more effective drug control efforts on their own.
- Heighten international concern about the global drug threat by demonstrating the deepening connection between the drug trade and other concerns such as economic growth and prosperity, democracy, and the environment.
- Lead efforts to develop and enforce stronger bilateral and multilateral standards (1) to deny traffickers access to essential drug-producing chemicals; (2) to control money laundering; and



- (3) to thwart the use of international commercial air, maritime, and land cargo shipments for smuggling.
- Make greater use of multilateral organizations—including traditional participants, such as the United Nations Drug Control Program, the United Nations Development Program, and the Organization of American States, and new participants, such as the World Bank and Regional Development Institutions such as the Inter-American Development Bank and Asian Development Bank—to institute programs where U.S. access is limited for security or political reasons, to complement U.S. interests, and to help internationalize the response to the drug problem.
  - Direct counternarcotics assistance at countries that demonstrate the requisite political will and commitment to reduce the production and trafficking of illegal drugs and make more aggressive use of economic and other sanctions against key drug-producing and transit countries that do not demonstrate the political will to cooperate on counternarcotics efforts.
  - Through nongovernmental organizations and other interest groups, mobilize international opinion against narcotics production, trafficking, and pressure complacent governments into developing and implementing strong counternarcotics policies and attacking drug-related corruption.
  - Encourage at-risk countries to invest resources in counternarcotics public awareness, demand reduction, and training programs that will build public support and strengthen the political will for implementing counternarcotics programs.
  - Encourage research institutions to develop programs that routinely monitor drug use trends and consequences and to compile the data necessary to describe the costs and effects of drug production, trafficking, and use on national security and welfare to meet the needs of policymakers and international drug control agencies.

Goal 13: Assist other nations to develop and implement comprehensive counternarcotics policies that strengthen democratic institutions, destroy narcotrafficking organizations, and interdict narcotrafficking in both the source and transit countries.

#### 1996 Objectives

- Focus U.S. assistance on building and strengthening judicial, enforcement, and social institutions in key drug-producing and transit countries so that they become more self-reliant and have a solid and publicly supported legal, political, and operational base for conducting a sustained attack on the drug trade.
- Pursue sustainable development programs in cooperating source countries to strengthen their economies and to create fundamental economic alternatives to narcotics production and trafficking.
- Encourage source countries to use sustainable development projects to extend governmental authority into drug-producing regions to facilitate eradication and enhance enforcement efforts.

- Intensify international efforts to arrest and imprison international drug kingpins and destroy their organizations.
- Coordinate diplomatic initiatives with major source countries to deny traffickers access to the chemicals they need to produce cocaine and heroin and to thwart the traffickers efforts to launder their illicit proceeds.

Goal 14: Support, implement, and lead more successful enforcement efforts to increase the costs and risks to narcotics producers and traffickers to reduce the supply of illicit drugs to the United States.

#### 1996 Objectives

- Reduce coca cultivation by 1996 by assisting and pressing Colombia, Bolivia, and Peru to initiate or intensify crop control efforts through enforcement operations and economic incentives.
- Stop the fast-developing opium cultivation by 1996 through aggressive crop control programs in Colombia, Guatemala, and Mexico and by preventing production from spreading to other Latin American countries.
- Aggressively support crop control programs for poppy and coca in countries where there is a strong prospect for a record of success.
- Conduct flexible interdiction in the transit zone to ensure effective use of maritime and aerial interdiction capabilities. The interdiction coordinator will report on progress in achieving this objective.
- Aggressively support crop control programs for poppy and coca in countries where there is a strong prospect for, or record of success.
- Optimize the program effectiveness of overseas interdiction programs by appointing an interdiction coordinator to coordinate the use of U.S. interdiction resources and to ensure that they are directed at the most important targets.
- Lead and support enhanced bilateral and multilateral criminal investigations—including collecting and sharing information and evidence—to identify, apprehend, and convict drug kingpins and their top associates.

#### ENSURING THAT GOALS AND OBJECTIVES ARE MET

The success of the National Drug Control Strategy ultimately rests on the ability of participants in drug control to effectively achieve the goals and objectives defined above. The Strategy is national in scope, and its success is not just a Federal responsibility. Instead, the Strategy requires the vigorous participation of State and local governments, private organizations and foundations, interest groups, religious organizations, and private citizens if it is to succeed.

ONDCP is charged by law with establishing policies, objectives, and priorities for the Strategy and for monitoring its implementation.<sup>55</sup> Federal agencies responsible for drug control activities will

<sup>55</sup> Specifically, Section 1003 of the Anti-Drug Abuse Act of 1988 requires that the Director "monitor implementation of the National Drug Control Strategy, including (A) conducting pro-

develop and submit to ONDCP plans describing concretely and precisely how the goals and objectives will be achieved. These plans will be reviewed and approved by the Director of ONDCP to ensure progress toward achieving Strategy goals.<sup>56</sup> ONDCP will report in 1995 and 1996 on the progress of the Strategy in achieving the goals and objectives delineated in the 1994 Strategy.

#### FEDERAL RESOURCE PRIORITIES

The President's 1995 budget request for drug control programs provides a new direction for national efforts to confront the problems caused by illicit drug use and trafficking. Not only has the total funding request substantially increased but significant emphasis is now placed on demand reduction programs, particularly treatment services for hardcore users and prevention activities for children and adolescents. Moreover, this budget provides resources to link drug policy with other facets of the Administration's domestic policy, especially programs to stimulate economic growth, reform health care, curb youth violence, and empower communities. The Fiscal Year (FY) 1995 request also proposes to unite drug programs with related efforts to give individuals and communities relief from problems that lead to drug use.

Recognizing the strong linkage between hardcore drug use and its health and crime consequences to society, the drug control budget increases funds for drug treatment to a record level. Moreover, the FY 1995 budget increases resources for community-based prevention education programs, critical supply reduction programs in source and transit countries to stop the flow of illicit drugs to the United States, and local law enforcement programs for community policing.

Further, interdiction funding has been reduced, reflecting the shift in program emphasis from relatively more expensive programs operating in the transit zone to less expensive programs in source and transit countries. Finally, the budget recognizes the importance of Federal law enforcement and maintains funding for efforts to ensure continued progress in attacking drug trafficking.

#### FY 1995 DRUG CONTROL PROGRAM RESOURCES

For FY 1995, the President has requested a record \$13.2 billion (see Exhibit 7-1) to enhance programs dedicated to drug control efforts. This represents an increase of \$1.0 billion, or 9 percent, more than the FY 1994 level. Given the tight fiscal constraints with which many programs are faced, the 1995 request clearly expresses the Administration's commitment to alleviating the problems associated with drugs, crime, and violence.

Throughout the FY 1995 request are funding enhancements in support of the goals of the 1994 National Drug Control Strategy. Increased funding has been requested for programs that have prov-

gram and performance audits and evaluations; and (B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations."

<sup>56</sup> As part of these implementation plans, Federal agencies will identify the data, surveys, and other sources of information they will use to assess progress in achieving the stated goals and objectives. In addition, the RD&E Committee will identify options to expand the scope and coverage of existing drug use and consequence measures, to monitor Strategy goals and objectives, and to conduct program evaluation.

an effective in addressing the problems of drug use and its associated crime and violence. Among the funding enhancements are:

- A total drug budget request of \$13.2 billion for drug control activities to fund programs that reduce the number of drug users and the amount of drugs used as well as reduce the supply of illicit drugs entering the United States.
- \$2.9 billion for drug treatment programs to expand treatment capacity and services and increase treatment effectiveness so that those in need of treatment can receive it.
- An additional \$355 million for programs that target the hard-core drug-using population.
- \$2.1 billion for drug prevention activities to create safe and healthy environments in which children and adolescents can live, grow, learn, and develop; to assist local communities in developing effective prevention programs; and to increase workplace safety and productivity by reducing drug use in the workplace. Of this amount, an increase of \$191 million is requested for the Safe Schools and the Safe and Drug Free Schools and Communities State Grant Program prevention programs to ensure that children receive comprehensive drug, crime, and violence prevention curricula.
- A new funding enhancement of \$568 million for Community Policing, including domestic law enforcement and prevention activities, to help reduce drug-related crime and violence in communities.
- A total of \$428 million for international efforts to strengthen international cooperation against narcotics production, trafficking, and use as well as to assist other countries in attacking the drug trade.
- \$28 million within the Department of Transportation to reduce the use of alcohol among youth.

The 1995 budget request includes significant increases in drug program funding for all major program areas except for drug interdiction. Table 7-1 illustrates the Federal drug control spending for the seven major functions tracked in the drug control budget.<sup>57</sup>

Together, treatment and prevention (Education, Community Action, and the Workplace) programs comprise more than 80 percent of the \$1.0 billion increase in total drug control resources between FY 1994 and FY 1995. Resources requested for treatment will increase by 14 percent; prevention resources will increase by 28 percent.

The budget also heavily emphasizes the role of the community in drug control efforts. Approximately \$775 million will be provided for community-based programs such as Community Empowerment, Community Policing, and Community Partnerships.

International program resources also will increase significantly in FY 1995. Total international program spending increases by 22 percent, from \$351 million in FY 1994 to \$428 million in FY 1995. Most of this increase supports State Department programs in the coca-producing countries, although additional resources are pro-

<sup>57</sup> Detailed information about Federal drug control spending by agency and function may be found in the Budget Summary report. See 1994 National Drug Control Program: Budget Summary, Office of National Drug Control Policy, February 1994.

vided to support bilateral and multilateral efforts to confront the emerging heroin problem.

Domestic law enforcement efforts increase 4 percent between FY 1994 and FY 1995. Most of this spending growth is to activate new Federal prisons and to initiate community policing-related drug law enforcement.

The FY 1995 budget requests for drug interdiction programs are down by 7 percent. A total of \$1.2 billion is requested in FY 1995. This is \$94 million less than the FY 1994 level of \$1.3 billion. Further, Interdiction funding is down by 20 percent, compared with FY 1993, due to substantial reductions in the Department of Defense budget and reduced operations in the transit zones.

Intelligence funding also is slightly down in the FY 1995 request, reflecting planned consolidation and streamlining of intelligence gathering and analysis capacity.

#### SUPPLY AND DEMAND RESOURCES

The Anti-Drug Abuse Act of 1988 requires the Director of the Office of National Drug Control Policy (ONDCP) to report on spending for programs dedicated to supply reduction and demand reduction activities. The \$1.0 billion increase in the FY 1995 request provides additional resources for both supply reduction and demand reduction programs. However, the bulk of the increase in total resources is for demand reduction programs, which increase by more than 18 percent, as compared with supply reduction programs, which increase by only 3 percent.

Of the total \$13.2 billion request, \$7.8 billion is for supply reduction programs and \$5.4 billion is for demand reduction programs. The percentage of resources for supply reduction has fallen below 60 percent for the first time. The FY 1995 budget provides 59 percent of total budgeted resources for supply reduction and 41 percent for demand reduction programs. This reflects a dramatic shift in program emphasis in favor of treatment and prevention programs. It also demonstrates the Administration's commitment to closing the gap between funding for supply reduction and demand reduction programs.

#### MAJOR DRUG BUDGET INITIATIVES

Four major budget initiatives are included in the FY 1995 request. The first two initiatives focus on reducing the demand for illicit drugs through treatment and prevention programs. The third initiative provides resources to communities to confront the problems of drug use and its health and crime consequences, particularly for youth and hard-to-reach populations. The last initiative enhances international programs to give producer countries the means to attack the problems of drug production and trafficking at the sources.

1. Reducing Hardcore Drug Use Through Treatment. First, the FY 1995 budget request focuses on increasing funding for programs that diminish drug use by providing additional funding for those programs that are most effective in reducing drug use, particularly for the hardcore drug using population. As has been stated in the Strategy, hardcore drug use fuels the continued high demand for illicit drugs and is linked to the high level of crime that occurs, es-

pecially in inner cities. Further, studies link hardcore drug use and HIV/AIDS (human immunodeficiency virus/ acquired immune deficiency syndrome) transmission. Injecting drug users and their sexual partners account for nearly one-third of the reported AIDS cases and, in cities where the rate of HIV is high, women trading sex for crack-cocaine also have been identified as a growing source of HIV/AIDS transmission.

It is for these reasons that the Strategy makes the reduction of drug use by hardcore users its number-one priority.

The total 1995 funding request for drug treatment programs is \$2.9 billion, an increase of \$360 million (14 percent). Of this increase, \$355 million is targeted specifically for programs to reduce hardcore drug use and includes the following elements:

- \$310 million for the Department of Health and Human Services (HHS) Substance Abuse Prevention and Treatment Block grant;
- \$35 million for a new treatment demonstration program at HHS for the hardcore population; and
- \$10 million for the expansion of treatment services for American Indian and Alaska Native populations.

It is anticipated that these additional funds will provide treatment for up to an additional 74,000 hardcore drug users.<sup>58</sup>

Furthermore, it is expected that the enactment of the Crime Bill will provide substantially more resources for treatment of prisoners. It is estimated that funding provided by the Violent Crime Reduction Trust Fund could provide resources to treat as many as 65,000 additional hardcore drug users in prisons.

These initiatives will specifically support the following goals:

- Goal 1 by reducing the number of drug users. In this particular case, the number of hardcore drug users will be reduced significantly. The \$355 million treatment initiative, coupled with resources expected from the Crime Bill, will enable as many as 140,000 additional hardcore drug users, both in and out of the criminal justice system, to receive drug treatment.
- Goal 2 by closing the treatment gap by 9 percent by 1996. The treatment gap will continue to close by like amounts thereafter if resources for treatment are maintained. The Administration will continue to support additional resources in the future to close the treatment gap as well as to provide adequate capacity so that all those who seek treatment can receive it.
- Goal 9 by targeting hardcore drug users. Drug-related crime and violence will be reduced.

2. Ensuring Safe and Drug-Free Schools by Improving Prevention Efficacy. Drug use and drug-related violence interfere with learning in schools. Accordingly, to create safe and drug-free environments, the FY 1995 request includes \$660 million for school-based drug and violence prevention programs, an increase of \$191 million over the FY 1994 level for two programs within the Department of Edu-

<sup>58</sup> The users targeted for treatment from the \$355 million initiative are those most likely to require extensive residential treatment and aftercare. This distinguishes them from those users generally supported by the Substance Abuse Block Grant, who tend to receive treatment on a less costly outpatient basis. However, given the health and crime consequences associated with those most addicted, this initiative targets these users to reduce such consequences.

cation: the Safe and Drug-Free Schools and Communities State Grant Program and the Safe Schools Program.

This initiative will ensure that children can attend schools that are free of crime and violence. Under the FY 1995 request, every student in grades K-12 will have the opportunity to receive violence and drug and alcohol use prevention education. Further, these new programs will allow for the procurement of metal detectors and the hiring of security personnel in school districts that demonstrate high levels of drug-related crime as well as other crime and violence problems.

It is estimated that more than 40 million youths are exposed to prevention programs annually; this initiative will provide more comprehensive programs than ever before. It specifically supports the following goals:

- Goal 1 by reducing the number of drug users. Once they are in safe learning environments, children can benefit from the prevention message. The 1992 Monitoring the Future Survey found drug use on the rise among students. This initiative seeks to reverse the recent increase in drug use among children.
- Goal 4 by helping communities develop effective prevention programs. By providing safe living and learning environments for youth, communities can ensure that every child in grades K-12 can participate in drug, alcohol, and violence prevention education.

3. Empowering Communities to Combat Drug-Related Violence and Crime. The FY 1995 request includes resources to empower communities to confront their drug problem directly. A total of \$1.0 billion is requested for community-based efforts. Included in this amount is \$733 million for the Community Policing, Empowerment Zone, and Community Partnership Programs.

The drug component of the Community Policing effort to provide 100,000 police on the streets is \$585 million. Community policing has been acknowledged as a necessary first step to halt the cycle of community decay caused by drug use and trafficking and the violence it generates. By increasing police presence and expanding community policing, the FY 1995 request contributes directly to the following goals:

- Goal 5 by helping communities to create safe and healthy environments.
- Goal 9 by enabling communities to address drug use and related violence.

Empowerment activities are local efforts based on strategic, comprehensive plans. They offer the best way to coordinate government efforts across program and jurisdiction lines, contributing to the following goals:

- Goal 1 by reducing the number of drug users.
- Goal 2 by providing expanded treatment capacity and services.
- Goal 5 by creating safe and healthy environments in which children and adolescents can live, grow, learn, and develop.

- Goal 8 by linking treatment and prevention services to other supportive social services in the community through the broader community empowerment effort.

Also for drug-related prevention and treatment efforts, \$50 million is in the FY 1995 request for the drug-related portion of the Community Empowerment Program, which will be directed principally by the Department of Housing and Urban Development. This initiative is to support communities that prevent and remedy child neglect and abuse by providing residential and nonresidential drug and alcohol prevention and treatment programs that offer comprehensive services for pregnant women and mothers and their children.

Moreover, to ensure linkages of comprehensive, community-based services—especially prevention services at the local level—the FY 1995 budget requests \$115 million for the Community Partnership program. This funding will aid in the organization of community efforts to build and implement comprehensive, antidrug community strategies.

The funding for the Community Partnership program is maintained at the FY 1994 enacted level. However, about \$37 million of the total \$115 million request includes resources becoming available as a result of the completed grant cycle from partnerships funded in the past. In essence, these resources will be available for grants for new community partnerships in FY 1995.<sup>59</sup> Community Partnerships contribute to the following Strategy goals:

- Goal 1 by providing prevention services and linkages to treatment programs to reduce the number of drug users in the United States.
- Goal 4 by assisting local communities in developing effective prevention programs.
- Goal 5 by creating safe and healthy environments in which children can live, grow, learn, and develop.
- Goal 6 by reducing the use of alcohol and tobacco products among underage youth.
- Goal 8 by strengthening linkages among prevention, treatment, and criminal justice communities and other supportive social services.

Finally, to provide resources in the areas of high drug trafficking and use, the FY 1995 request for the ONDCP High Intensity Drug Trafficking Area Program (HIDTA) is \$98 million, an increase of \$12 million. The increase in funding will permit one additional HIDTA, bringing the total to six. The five HIDTA's that currently exist are New York, Los Angeles, Miami, Houston, and the Southwest border. It is envisioned that a portion of the funds in FY 1995 will be used for services to reduce drug use by the hardcore population. This initiative contributes to the following goals:

<sup>59</sup> For the most part, the Community Partnership grants have historically been awarded for 3 to 5 years. The current program allows the majority of the funds, approximately 80 percent, to be used for community development efforts, with only a small portion of the funds to be used for the implementation of the plan. With the newly available funds in FY 1995, this program will be restructured to allow the communities to use the majority of the funds for the provision of direct prevention services. Additionally, it will require the communities to demonstrate how they will continue their drug prevention efforts after the grant has expired.



- Goal 1 by reducing drug use, particularly in the newly proposed HIDTA that will target the problem of hardcore drug use.
- Goal 5 by helping communities to create safe and healthy environments.
- Goal 9 by enabling communities to address drug use and related violence.
- Goal 10 by enabling law enforcement to reduce domestic availability of illicit drugs and to target those who traffic in such drugs.
- Goal 11 by improving the efficiency of Federal drug law enforcement.

4. Increased International Program Efforts. The fourth major budget initiative supports supply reduction programs worldwide. The 1995 budget requests an increase of \$76 million for International Programs, of which \$72 million is for the Department of State and the Agency for International Development to support source country efforts to reduce the availability of illicit drugs through activities such as training of law enforcement, judicial reform, crop control, sustainable development, interdiction, and demand reduction efforts.

The 1995 request recognizes that drug policy must be an integral part of U.S. foreign policy and be pursued on a broad front of institution building, dismantling of drug-related organizations, and source-country and transit zone interdiction. To improve the national response to organized international drug trafficking, the budget emphasizes programs that support a controlled shift of resources from the transit zones to the source countries. This initiative will directly contribute to the following goals:

- Goal 12 by strengthening international cooperation against illicit drug production, trafficking, and use.
- Goal 13 by assisting other countries in developing comprehensive counternarcotics policies, including those contributing to institution building and economic growth.
- Goal 14 by supporting law enforcement efforts to increase the costs and risks to traffickers.

#### OTHER FY 1995 BUDGET HIGHLIGHTS

There are several other notable changes in the 1994 National Drug Control Strategy.

- Activities by the Corporation for National and Community Service programs will be enhanced by \$15 million, to a total of \$43 million, to address the educational, human service, public safety, and environmental needs of the Nation through volunteer activities.
- Research activities within the National Institutes of Health will increase by \$18 million, to a total of \$444 million.
- Immigration and Naturalization Service drug-related activities will increase by \$11 million, to a total of \$168 million.
- An increase of \$16 million for the Job Training Partnership Act program to provide enhanced vocational training and rehabilitative services for the hardcore drug user.

- A decrease of \$52 million in the Coast Guard program largely due to the completion of the Operation Bahamas and Turks and Caicos Helicopter Replacement program.
- Funding for Department of Defense activities has increased slightly by \$6 million, to a total of \$874 million. However, this request is still down by \$266 million from its FY 1993 level.
- Funding for the formula portion of the Byrne grant has been eliminated. However, the discretionary amount has been doubled to \$100 million. It is anticipated that the activities conducted under the formula grant will be carried out under grants authorized by the pending Crime Bill.
- The air and marine programs within the Customs Service have been reduced by \$31 million to a total Customs Service drug-related request of \$506 million. However, this reduction will not impact the operation of the P-3 air surveillance program.

#### PROGRAM LINKAGES

The 1994 National Drug Control Strategy recognizes the importance of Federal, State, and local government program linkages and the need for grassroots level efforts rather than top-down Federal-to-local programs to deal with the drug problems. There must be a commitment by all levels of government for programs to succeed at the community level.

To that end, there is a strong need for better cross-agency coordination with regard to drug programs as well as more flexibility for communities to allocate resources in areas that will best meet their particular circumstances. The Community Empowerment program holds great promise for enabling communities to better coordinate Federal spending, but more can be done.

To carry out this priority, ONDCP will work with Federal agencies to encourage program linkages at the local level to improve program delivery. For example, there is a need for treatment providers to be better linked to programs that offer related vocational and social services for hardcore drug users. ONDCP will encourage Federal drug control agencies to identify programs that could be better linked to provide a more comprehensive package of services so that hardcore drug users can function in society by reducing or eliminating their drug use. ONDCP will encourage such agencies to enter into interagency agreements, cooperative agreements, and memoranda of understanding to better meet the drug services needs in communities.

#### NATIONAL FUNDING PRIORITIES FOR FY 1996 TO FY 1998

The Administration will vigorously pursue funding for the following program areas to reduce drug use and its consequences to the individual and society and to reduce the availability of illicit drugs in the United States. The following are the funding priorities for FY 1996 to FY 1998:

- Expand treatment capacity and services and increase treatment effectiveness so that those who need treatment can receive it.
- Enhance prevention programs that target youth, reducing underage use of illicit drugs, alcohol, and tobacco products.

- Support programs at the local level that create safe and healthy environments in which children and adolescents can live, grow, learn, and develop.
- Focus increased efforts on programs that assist local communities in developing effective prevention programs.
- Increase workplace safety and productivity by reducing drug use on the job.
- Strengthen multiagency linkages among prevention, treatment, and criminal justice programs as well as other supportive social services to better serve the needs of the communities.
- Support programs that reduce domestic drug-related crime and violence.
- Enhance programs that reduce all domestic drug production and availability, and continue to target for investigation and prosecution those who illegally manufacture and distribute drugs and who illegally divert pharmaceuticals and listed chemicals.
- Support enhancements to programs that strengthen international cooperation and actions against narcotics production, trafficking, and use.

#### CONCLUSION

The Administration's National Drug Control Strategy is designed to redirect and reinvigorate national efforts to confront the drug crisis. This Strategy significantly shifts emphasis and budget priorities to drug demand reduction, targeting important additional resources to reduce chronic, hardcore drug use. At the same time, the Strategy maintains an appropriate level of emphasis on domestic and international enforcement initiatives. The Strategy no longer perceives America's drug problem through the narrow prism of supply versus demand activities. Instead, the Strategy sets forth measurable goals and objectives by which the effectiveness of domestic and international programs can be measured.

Ultimately, America's drug problem will be solved at home, through domestic programs that combine effective law enforcement, treatment, prevention, and education programs that are mutually supportive. The international program supports the domestic effort by reducing the availability of illegal drugs and by creating a global environment where drug production, trafficking, and use are universally opposed and condemned.

Drug policy will be linked with efforts to spur economic growth, reform health care, curb youth violence, and empower communities. At the heart of the domestic program are demand reduction efforts. Crucial to these efforts are educational and youth-directed programs such as the President's National Service Initiative and community-based programs such as Empowerment Zones and Enterprise Communities. Aggressive drug treatment will be aimed at hardcore users in the community and in the criminal justice system, and the proposed Health Security Act will make drug treatment part of the national health care system. Research will focus on the application of behavioral and biomedical science as well as on at-risk populations and medications evaluations.

Also crucial to domestic drug policy are reducing drug-trafficking and drug-related violence, and controlling and preventing crime.

The Administration will work vigorously, using the full force of the available investigative and prosecutorial tools, to suppress the traffic in drugs aimed at and already within the United States and to quell the violence associated with drug trafficking. In addition to continuing to target drug trafficking organizations, Federal law enforcement agencies will increase their involvement in cooperative law enforcement efforts to help communities rid their neighborhoods of gangs. These agencies also will disrupt major drug trafficking organizations by keeping drugs from entering the country and spreading across it. The Safe Schools Act of 1993, awaiting congressional passage, will help curb school violence. Reauthorization of the Drug-Free Schools and Communities Act and other initiatives will address the impact of drugs and violence on youth.

Drug control policy will be an integral part of foreign policy, because drug trafficking is a national security problem that jeopardizes efforts to achieve political stability and economic security abroad.

To counter the cocaine and heroin trade, the Administration will take steps to ensure a coordinated response by the State Department, the Department of Defense, and law enforcement agencies. Counternarcotics programs in other countries will be supported, and steps will be taken to strengthen and broaden international cooperation against the drug trade. U.S. Federal law enforcement agencies will lead the effort to develop an international coalition against drug cultivation, production, trafficking, and use. Efforts through international organizations will continue, including the United Nations Drug Control Program, which currently provides drug control assistance to 97 countries.

Antidrug efforts are a national, not a Federal, undertaking. Key to the Strategy are initiatives that involve State and local governments, the private sector, schools, religious and community groups, and individual Americans.

#### APPENDIX A: RESEARCH, DATA, AND PROGRAM EVALUATION

Since its inception, the National Drug Control Strategy has included a long-term commitment to research in several areas. These areas include drug use, treatment, education, prevention, criminal justice, and technical advancements in support of law enforcement and drug interdiction. The knowledge that emerges from this research and the tools that are based on it have contributed to reducing the impact of drug use on this Nation and will serve as a basis for the Office of National Drug Control Policy's (ONDCP's) future strategies to address national drug problems.

#### RESEARCH, DEVELOPMENT, AND PROGRAM EVALUATION BUDGET

The strategy for addressing the continuing problems presented by drug trafficking and drug abuse in the United States will be shaped largely by harnessing the best minds in the fields of social sciences and public policy, physics, chemistry, the health sciences, and engineering.

For Fiscal Year 1995, this Administration will seek \$531.6 million for drug-related research in a wide range of fields. (See Table A-1.) Several Federal departments and agencies with responsibil-

Table A-1. Research Funding.

(Budget Authority in Millions)

	FY 1993 Actual	FY 1994 Esti- mate	FY 1995 Presi- dent's Re- quest	FY 94-FY95 Change	
				\$	%
Treatment .....	242.0	252.6	264.4	11.8	4.5
Prevention .....	164.3	174.8	181.0	6.2	3.4
CTAC .....	15.0	7.5	7.5	0.0	0.0
ONDCP .....	1.9	2.8*	1.5	-1.3	-86.7
Other Domestic Law Enforcement .....	75.9	66.9	77.2	10.3	13.3
Total R&D .....	499.1	504.6	531.6	27.0	5.1

\* Includes \$1.2 million for a one-time heavy-user study.

ities for drug control participate in enhancing the state of knowledge regarding drug trafficking and use and the techniques to address them. In the pages that follow, the projects and research objectives set for the next fiscal year are described. The fruit of this work will strengthen drug program efforts at all levels—Federal, State, and local.

#### THE RESEARCH, DATA, AND EVALUATION (RD&E) COMMITTEE

To determine which programs and strategies are the most effective, data collection and research efforts must be refined and improved. Federal, State, and local governments and private organizations must be able to obtain reliable information about the nature and extent of the drug problem to use in developing appropriate policy and for program development and evaluation. Efforts have already begun to improve the quality, timeliness, and policy relevance of drug data collection systems and to develop new methods for capturing information about emerging trends. Additionally, a new data collection effort has been undertaken to measure the number, location, and characteristics of the hardcore user population. ONDCP also will, in coordination with other drug control departments and agencies, sponsor and conduct research and evaluation projects to determine which strategies and programs are working, and why.

Coordination of Federal research and evaluation efforts and open exchange of information from drug-related research and evaluation projects are essential to sound policy. To assist in this, ONDCP will establish and convene the Research, Data, and Evaluation (RD&E) Committee in 1994. The goals of this committee will be to (1) provide, promote, and facilitate coordination of Federal research efforts; (2) ensure that key Federal research efforts receive appropriate support and priority; and (3) provide a mechanism to ensure that the available drug-related Federal research dollars are expended on projects that have a high probability of both immediate and long-term cost-effectiveness and are consistent with the primary goals and objectives of the National Drug Control Strategy. This committee also will seek to ensure that both the drug-related data and results of evaluations as well as the knowledge and useful

products that flow from Federal research projects are readily available to the broader drug control community.

The RD&E Committee will establish policies and priorities for drug control research; review and monitor all phases of drug-related data collection, research, and evaluation; and foster drug-related research, such as the development of new modes of drug treatment. The RD&E Committee also will be charged with identifying research-related actions for future Strategies and suggesting appropriate funding levels and sources for RD&E activities. In addition, ONDCP will seek expanded participation by industry, the academic community, and other countries in the development and exchange of drug-related technology. ONDCP's Counter-Drug Technology Assessment Center (CTAC) will be integrated into the RD&E Committee within the overall research and evaluation initiative.

The organizational structure of the RD&E Committee (see Exhibit A-1) will reflect the important role of the CTAC as the central counterdrug enforcement research and development organization of the U.S. Government. It is headed by a chief scientist, appointed by the Director of ONDCP, who serves as head of ONDCP's Science and Technology Subcommittee. CTAC develops for the Director of ONDCP near-, mid-, and long-term scientific and technological requirements for Federal, State, and local law enforcement agencies and for supporting related research. Through the Science and Technology Subcommittee, the chief scientist is able to enlist and coordinate Federal efforts to assist law enforcement agencies.

#### USING RESEARCH RESULTS

ONDCP's research objective is to improve the efficiency and effectiveness of drug control programs through the explicit application of research and evaluation by all parties involved in the drug effort. The Administration will support efforts that add to the base of knowledge concerning: (1) the nature and extent of the drug problem, including efforts to improve the scope and quality of data collection systems, and (2) the relative effectiveness of specific approaches to reducing drug availability and use. In particular, there is a need to know more about the causes and consequences of drug use, where drug use poses the greatest threat and with whom, what options are available to control initiation, and how best to reduce drug use.

#### DEMAND-RELATED RESEARCH, EVALUATION, AND DEVELOPMENT

With respect to demand-related research, emphasis will be placed on learning more about trends and characteristics of drug use, drug surveillance systems to track drug use and market trends on a real-time basis, and new data sources to determine drug use trends among high-risk groups and groups currently underrepresented in existing surveys. The Federal Government, which supports almost 90 percent of all drug abuse research, generally has focused its efforts on the incidence and prevalence of drug use and on its causes and effects. Federally funded research now is working to develop estimates of the hardcore user population and is also supporting efforts to develop new therapeutic approaches for treatment and to evaluate and maximize their efficacy. Also under development are improved diagnostic strategies

and instruments as well as outreach approaches for hardcore drug users not in treatment [especially for injecting drug users at risk for HIV/AIDS (human immunodeficiency virus/acquired immune deficiency syndrome), hepatitis B, sexually transmitted diseases, and tuberculosis].

Practical requirements, as well as Executive Order 12880, dictate that the bulk of demand reduction research focus on the quality, cost/effectiveness, access, organization, financing, and management of: (1) drug treatment, prevention, and education and (2) related demand reduction activities. Priority areas for the immediate future will include evaluation of new medications for drug abuse treatment, research into the effects of drugs on the pregnant addict and her child, and development and testing of new prevention strategies.

Research also will focus on evaluation of behavioral therapies for drug treatment and the effects of drugs on the brain and nervous system. For example, recent studies have shown that only 20 percent of cocaine users in the United States account for a full two-thirds of all the cocaine consumed each year.<sup>60</sup> Due to certain attributes of cocaine (i.e., its rapid entry into the blood stream, the high serum concentration it achieves, and its action on the brain), it is exceptionally addictive and its effects on the central nervous system are cumulative and often devastating.<sup>61</sup> Typically, about 75 percent of cocaine users relapse to some level of use within a year of admission to treatment—many do so either during or shortly after completion of the treatment program. There are some new therapeutic agents that may hold promise for helping addicts abstain from cocaine use, but these usually require several weeks to take effect and, as they alone cannot eliminate either social or biological contributors to addiction, they do not provide a cure. With these studies in mind, the Federal Government will continue to investigate new approaches to the treatment of cocaine addiction, such as by the use of catalytic antibodies that destroy the drug after it enters the blood stream but before it reaches the brain.

In another area of prevention and treatment, some experts postulate that an increasing percentage of violent crimes are being committed by drug addicts for the purpose of financing their consumption of illegal drugs, primarily cocaine and heroin. When apprehended and convicted, these hardcore drug users most often are sentenced to incarceration, but they are seldom treated for their addiction while confined. Upon their release, they generally return to both drug use and other crimes. The goal is to identify those inmates who require treatment and to enroll them into an effective drug treatment program while they are incarcerated—with successful completion as a requirement before they are eligible for transition to the community. To measure successful completion, the use of advanced techniques to identify drug use using biochemical tests of sweat or hair is being investigated. These technologies have shown promise under laboratory conditions and now must be evaluated for use by jails, prisons, and community corrections officials.

<sup>60</sup> RAND Corporation. Modeling the Demand for Cocaine (draft report prepared for ONDCP, July 1993).

<sup>61</sup> Donald Landry, et al. "Antibody-Catalyzed Degradation of Cocaine," *Science* 26: 1899-1901, March 1993.

Drug treatment centers need the best and latest information from the research community on the most effective methods and types of treatment available. This includes an in-depth understanding of the type of individuals who enter treatment programs—their demographic characteristics as well as their treatment, drug use, and criminal histories. Furthermore, the research community needs information from the treatment centers to help determine the short- and long-term effectiveness of different types of treatment and to determine how best to match individuals with the proper treatment modality. This information, as well as details on progress from ongoing research efforts, must be shared among researchers and practitioners to improve their ability to engage in collaborative efforts. ONDCP will spearhead a computer-based drug treatment research information network that will link the research community and drug treatment centers throughout the Nation using Internet and the evolving National Research and Education Network. At present, all available research results and treatment information are being incorporated into a prototype multimedia information network system designed to share the latest information with the broader community over the "information superhighway." This effort is intended to improve the way drug use treatment is administered by facilitating ongoing collaboration among major research efforts. Provision of this capability puts the latest research at the direct disposal of treatment providers and provides a means for easy access to information by all those involved in treatment provision and research.

As stated in the 1993 Interim Strategy, it is clear that Historically Black Colleges and Universities (HBCUs) can make significant contributions in the areas of both supply reduction and demand research and development initiatives. With their unique ties to both academia and the African-American community, HBCUs offer an opportunity to target sophisticated prevention and treatment modalities for drug use. In addition, HBCUs can play an important role in the area of technical contributions to technology development.

In support of this, ONDCP will identify those schools with graduate degrees in technologies applicable to CTAC requirements. ONDCP, through the CTAC, will then work with HBCUs with the most promising mix of technologies for counterdrug research proposals, emphasizing proposals that feature joint academic-community partnerships. Additionally, CTAC will include HBCUs in areas such as technical seminars and technology review meetings.

ONDCP also will work with the Hispanic Association of Colleges and Universities to identify those colleges and universities that have strong links with Hispanic populations to target prevention and treatment programs to this, the fastest growing and youngest minority population in the United States. These institutions provide an effective vehicle to reach large numbers of Hispanic youths living in poverty and at high risk for using drugs and alcohol.

Beyond this, research in other areas also is critical. Included are inquiries into the findings from basic medical research, which are useful as building blocks for the development of new medications; research on drug use and AIDS transmission; and research on maternal, paternal, and fetal effects of drug use.



Medical research also plays a significant role in the Strategy. The Nation confronts rapidly evolving problems with new drugs and patterns of use. Intensive research efforts are now being addressed to learning about the biophysical and behavioral nature of these problems and to treating them. Primary responsibility for coordination of medical research performed in the separate branches of the Federal Government will be vested in the Treatment, Prevention, and Medical Research Subcommittee of the ONDCP RD&E Committee. Drug control departments and agencies on the demand reduction side have already begun vital research on improved treatment protocols, better matching of clients to types of treatment, and developing medications that reduce craving for addictive drugs or block their effects. Large-scale research efforts have been targeted at understanding cocaine addiction, the effect of maternal cocaine use on babies, how to help these babies, and how to treat cocaine users. The Treatment, Prevention, and Medical Research Subcommittee will have the responsibility for coordinating current and future agency research efforts with the major priorities of the National Drug Control Strategy, which will be further elaborated by this Subcommittee into specific goals, objectives, and strategies acceptable to all members.

As efforts to create new treatment sites and programs lead to an increase in the number of treatment slots available, there will be a corresponding increase in requirements for trained men and women to staff them. But many current programs lack the trained professional staff appropriate to the adoption of sophisticated new treatment techniques. In addition, all too often counselors and other adjunct staff members have limited or inadequate training. In an effort to provide for this needed training and for comprehensive and effective continuing education, ONDCP will—working through the Treatment, Prevention, and Medical Research Subcommittee—seek to expand, refine, and streamline drug abuse training programs in medical schools and elsewhere.

#### SUPPLY-RELATED RESEARCH AND DEVELOPMENT

With respect to supply-related research and development (R&D), efforts will be focused on ways to improve information about illicit drugs, including production, prices, and availability in the United States. These efforts will include the cooperation of international organizations to coordinate collection and application of such knowledge for purposes of developing strategies for drug control. These efforts also will include research to establish ways to counter the corrupting influence of drug trafficking by promoting democracy, economic stability and growth, and human rights. Already underway are studies to estimate the availability of illicit drugs in other countries and to develop improved information about worldwide drug seizures.

In the Science and Technology area, to consolidate Federal research and development efforts, CTAC has formulated a multiyear national research and development program for counterdrug technology development. The program centers on four major thrusts—(1) wide area surveillance, (2) nonintrusive inspection, (3) tactical technologies, and (4) demand reduction—and on the attendant test-

ing and support capability for technology development within each thrust.

CTAC will expand its technology development and sharing efforts with State and local law enforcement agencies. Accordingly, as stated in the Interim National Drug Control Strategy, ONDCP has initiated a National Counterdrug Research and Development Program to access the national technology resources. This program—comprised of several technology development initiatives focused on bringing advanced technology to the Federal, State, and local law enforcement communities—includes initiatives to improve the technology development infrastructure to assist both supply and demand reduction activities. Furthermore, it established an outreach program to ensure technical dialogue and information flow on the domestic and international fronts. This outreach program consists of technical problemsolving symposia and workshops involving supply and demand reduction researchers, the private sector, and academia, including historically black and Hispanic educational institutions. CTAC also sponsors research to identify and address gaps in technology in order to improve the ability to counter drug trafficking and its associated criminal activity.

Information sharing must be one of the cornerstones of any program to support State and local R&D programs. To support and accelerate the transfer of technology to State and local organizations, CTAC will sponsor at least 12 demonstrations of information sharing at Federal, State, and local test sites.

In another area related to information sharing, a prototype system is being developed to permit the integration of information from various criminal justice data bases, regardless of the computer type or physical location. Once completed, the prototype criminal information system will be provided at low cost to existing operating systems of Federal, State, and local law enforcement agencies.

ONDCP also has established the Technology Testbed Program in several local sites set up to function like laboratories, with the goals of deriving better designs for field equipment and affecting major improvements to counterdrug operations for the law enforcement community. These testbeds provide an environment to evaluate equipment prototypes and to improve design specifications before fielding the equipment. Testbeds also permit the insertion of new technologies into existing operations early in the planning and development stages in order to assess how their introduction might improve overall operations and performance.

ONDCP also has undertaken another outreach program to establish lines of communication with scientific and technical experts in academia, national laboratories, Government agencies, and private industry to assist in the identification and development of promising new counterdrug technologies. In October 1992, as part of this program, ONDCP hosted (with the National Institute of Justice) a Contraband and Cargo Inspection International Technology Symposium. The purpose of this meeting was to examine the potential of technology to accomplish nonintrusive inspections at national borders by the U.S. Customs Service and other counterdrug law enforcement agencies. In November 1993 ONDCP sponsored a technical symposium examining technologies applicable to the Drug En-

forcement Administration, the Federal Bureau of Investigation, the U.S. Coast Guard, and State and local law enforcement organizations for combatting traffickers.

In the international arena, ONDCP has sponsored and supported international technical symposia for the exchange of information. ONDCP has begun several cooperative R&D initiatives with South American countries to improve and validate ONDCP models of cocaine crop and yield estimation models.

In the area of Tactical Technologies, ONDCP efforts will focus on information systems and communications and surveillance equipment. This equipment is used to support field and headquarters personnel in their daily tactical operations against drug trafficking organizations. Implementation of this research would lead to better information processing, allowing enforcement personnel to better use the vast amounts of data produced by field agents. Focused information management research will enhance data processing, sorting, and analysis capabilities.

The development of trace substance detection capabilities for the analysis of physical evidence is needed to assist in ongoing investigations. Such capabilities will include identification of traces of narcotics on currency seized in drug transactions and on luggage or other conveyances used in the drug trade. Also included will be analysis of bodily fluids for illicit drugs and a complete range of standard forensic examinations in support of criminal investigations.

Attempts to conceal drug and contraband shipments on board commercial carriers and within legitimate international commerce present a formidable challenge to law enforcement agencies. The U.S. Customs Service inspection personnel examine shipping containers and other conveyances at U.S. ports of entry. Similarly, the U.S. Coast Guard conducts boardings of vessels at sea in both international waters and the territorial sea for compliance with U.S. laws. Smugglers have been known to use every form of shipment, including private vehicles, sailboats and motor vessels, concealed compartments and tanks, various forms of mail services, aircrafts of all types, luggage carried by air and sea passengers or pedestrians, external and internal body cavities, and containerized cargo. Research into the area of nonintrusive inspection relies heavily on the transfer of nuclear, x-ray, gas chromatography, and spectroscopy technology developed for U.S. nuclear and chemical weapons. Additionally, the nonintrusive inspection thrust must provide solutions for monitoring transportation of illegal drug money, chemicals, and substances used to manufacture illegal drugs, either into or out of the country. This is especially important because the movement of money out of the United States by drug organizations finances all aspects of drug-smuggling operations.

CTAC's national R&D program calls for the development of a family of nonintrusive inspection systems to be installed at U.S. Customs Service border crossing inspection points located at intermodal, airport, and commercial truck facilities. These systems must be designed to address all aspects of contraband detection, from the processing of the manifest/entry data to identifying the most likely suspicious shipments. These systems also must assess nuclear,

physical, and chemical sensor hardware concepts and use sophisticated algorithms to optimize sensor performance.

Other supporting technologies, such as chemical sniffers and x-ray-related technology for body scanning, also are addressed under CTAC research. Evaluation of these technologies will provide inspectors with a rapid and reliable method to determine when there is a need for a more thorough investigation of suspect individuals, baggage, or cargo.

These are but a few of the areas in which ONDCP currently has an interest. The broad area of research, evaluation, and development is one in which America always has excelled. It is the purpose and mission of the RD&E Committee, with the CTAC, to till this fertile field in support of efforts to address this Nation's drug problem.

## **B. National Drug Control Strategy 1994: Budget Summary**

(partial text)

### **FOREWORD**

This document is the companion volume to the National Drug Control Strategy, transmitted to Congress by the President in February, 1994, pursuant to Title I of Public Law 100-690. It consists of the following sections:

- Section 1: The first section, entitled "Federal Resource Priorities," outlines the President's 1995 funding request for drug-related programs, as well as the drug-related priorities and objectives.
- Section 2: The second section, entitled "Budget Summary Tables," highlights drug control funding by Functional and Agency Summary for Fiscal Years 1993 through 1995.
- Section 3: The third section, entitled "Agency Summaries," provides descriptions of the Fiscal Year 1995 budget request for each of the Department and agency drug-related accounts that are included in the National Drug Control Budget.
- Section 4: The final section, entitled "Additional Funding Tables," provides supplementary information on funding levels, including historical funding levels by function for 1981 through the President's request for 1995.

## FEDERAL RESOURCE PRIORITIES

The President's 1995 budget request for drug control programs provides a new direction for national efforts to confront the problems caused by illicit drug use and trafficking. Not only has the total funding request substantially increased but significant emphasis is now placed on demand reduction programs, particularly treatment services for hardcore users and prevention activities for children and adolescents. Moreover, this budget provides resources to link drug policy with other facets of the Administration's domestic policy, especially programs to stimulate economic growth, reform health care, curb youth violence, and empower communities. The Fiscal Year (FY) 1995 request also proposes to unite drug programs with related efforts to give individuals and communities relief from problems that lead to drug use.

Recognizing the strong linkage between hardcore drug use and its health and crime consequences to society, the drug control budget increases funds for drug treatment to a record level. Moreover, the FY 1995 budget increases resources for community, based prevention education programs, critical supply reduction programs in source and transit countries to stop the flow of illicit drugs to the United States, and local law enforcement programs for community policing.

Further, interdiction funding has been reduced, reflecting the shift in program emphasis from relatively more expensive programs operating in the transit zone to less expensive programs in source and transit countries. Finally, the budget recognizes the importance of Federal law enforcement and maintains funding for efforts to ensure continued progress in attacking drug trafficking.

## FY 1995 DRUG CONTROL PROGRAM RESOURCES

For FY 1995, the President has requested a record \$13.2 billion (see Exhibit 1-1) to enhance programs dedicated to drug control efforts. This represents an increase of \$ 1.0 billion, or 9 percent, more than the FY 1994 level. Given the tight fiscal constraints with which many programs are faced, the 1995 request clearly expresses the Administration's commitment to alleviating the problems associated with drugs, crime, and violence.

Throughout the FY 1995 request are funding enhancements in support of the goals of the *1994 National Drug Control Strategy*.<sup>1</sup> Increased funding has been requested for programs that have proven effective in addressing the problems of drug use and its associated crime and violence. Among the funding enhancements are:

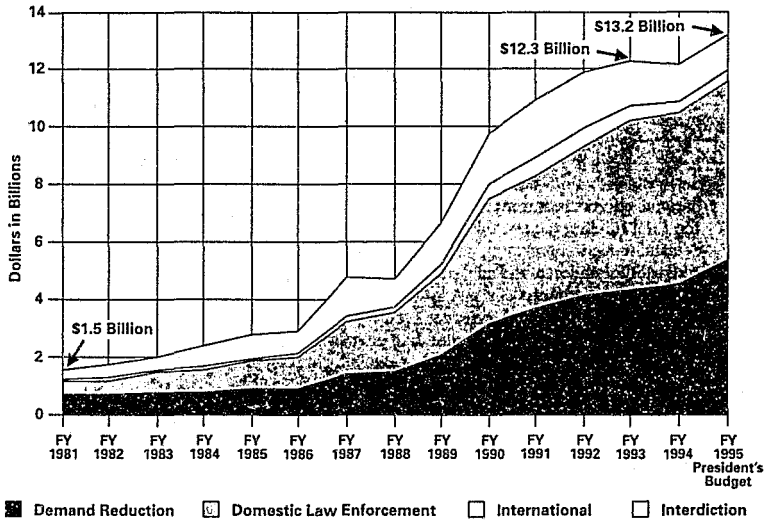
- A total drug budget request of \$13.2 billion for drug control activities to fund programs that reduce the number of drug users and the amount of drugs used as well as reduce the supply of illicit drugs entering the United States.

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<sup>1</sup>The Goals of the National Drug Control Strategy can be found on page 10 of this document.

Exhibit 1-1

## Federal Drug Control Spending by Function, 1981-1995



- \$2.9 billion for drug treatment programs to expand treatment capacity and services and increase treatment effectiveness so that those in need of treatment can receive it.
- An additional \$355 million for programs that target the hardcore drug-using population.
- \$2.1 billion for drug prevention activities to create safe and healthy environments in which children and adolescents can live, grow, learn, and develop; to assist local communities in developing effective prevention programs; and to increase workplace safety and productivity by reducing drug use in the workplace. Of this amount, an increase of \$191 million is requested for the Safe Schools and the Safe and Drug Free Schools and Communities State Grant Program prevention programs to ensure that children receive comprehensive drug, crime, and violence prevention curricula.
- A new funding enhancement of \$568 million for Community Policing, including domestic law enforcement and prevention activities, to help reduce drug-related crime and violence in communities.
- A total of \$428 million for international efforts to strengthen international cooperation against narcotics production, trafficking, and use as well as to assist other countries in attacking the drug trade.
- \$28 million within the Department of Transportation to reduce the use of alcohol among youth.

The 1995 budget request includes significant increases in drug program funding for all major program areas except for drug inter-

diction. Table 1-1 illustrates the Federal drug control spending for the seven major functions tracked in the drug control budget.

	FY 1993 Actual	FY 1994 Estimate	FY 1995 President's Request	FY 94-FY 95 Change	
				\$	%
Drug Treatment	2,339.1	2,514.1	2,874.4	360.3	14.3%
Education, Community Action, and the Workplace	1,556.5	1,602.4	2,050.7	448.2	28.0%
Criminal Justice System	5,685.1	5,700.4	5,926.9	226.6	4.0%
International	523.4	351.4	427.8	76.4	21.7%
Interdiction	1,511.1	1,299.9	1,205.6	(94.3)	-7.3%
Research	499.1	504.6	531.6	27.0	5.3%
Intelligence	150.9	163.4	162.8	(0.6)	-0.4%
Total	12,265.3	12,136.2	13,179.8	1,043.6	8.6%

Together, treatment and prevention (Education, Community Action, and the Workplace) programs comprise more than 80 percent of the \$1.0 billion increase in total drug control resources between FY 1994 and FY 1995. Resources requested for treatment will increase by 14 percent; prevention resources will increase by 28 percent.

The budget also heavily emphasizes the role of the community in drug control efforts. Approximately \$775 million will be provided for community-based programs such as Community Empowerment, Community Policing, and Community Partnerships.

International program resources also will increase significantly in FY 1995. Total international program spending increases by 22 percent, from \$351 million in FY 1994 to \$428 million in FY 1995. Most of this increase supports State Department programs in the coca-producing countries, although additional resources are provided to support bilateral and multilateral efforts to confront the emerging heroin problem.

Domestic law enforcement efforts increase 4 percent between FY 1994 and FY 1995. Most of this spending growth is to activate new Federal prisons and to initiate community policing-related drug law enforcement.

The FY 1995 budget requests for drug interdiction programs are down by 7 percent. A total of \$1.2 billion is requested in FY 1995. This is \$94 million less than the FY 1994 level of \$1.3 billion. Further, Interdiction funding is down by 20 percent, compared with FY 1993, due to substantial reductions in the Department of Defense budget and reduced operations in the transit zones.

Intelligence funding also is slightly down in the FY 1995 request, reflecting planned consolidation and streamlining of intelligence gathering and analysis capacity.



## SUPPLY AND DEMAND RESOURCES

The Anti-Drug Abuse Act of 1988 requires the Director of the Office of National Drug Control Policy (ONDCP) to report on spending for programs dedicated to supply reduction and demand reduction activities. The \$ 1.0 billion increase in the FY 1995 request provides additional resources for both supply reduction and demand reduction programs. However, the bulk of the increase in total resources is for demand reduction programs, which increase by more than 18 percent, as compared with supply reduction programs, which increase by only 3 percent.

Of the total \$13.2 billion request, \$7.8 billion is for supply reduction programs and \$5.4 billion is for demand reduction programs. The percentage of resources for supply reduction has fallen below 60 percent for the first time. The FY 1995 budget provides 59 percent of total budgeted resources for supply reduction and 41 percent for demand reduction programs. This reflects a dramatic shift in program emphasis in favor of treatment and prevention programs. It also demonstrates the Administration's commitment to closing the gap between funding for supply reduction and demand reduction programs.

## MAJOR DRUG BUDGET INITIATIVES

Four major budget initiatives are included in the FY 1995 request. The first two initiatives focus on reducing the demand for illicit drugs through treatment and prevention programs. The third initiative provides resources to communities to confront the problems of drug use and its health and crime consequences, particularly for youth and hard-to-reach populations. The last initiative enhances international programs to give producer countries the means to attack the problems of drug production and trafficking at the sources.

1. Reducing Hardcore Drug Use Through Treatment. First, the FY 1995 budget request focuses on increasing funding for programs that diminish drug use by providing additional funding for the programs that are most effective in reducing drug use, particularly for the hardcore drug using population. As has been stated in the Strategy, hardcore drug use fuels the continued high demand for illicit drugs and is linked to the high level of crime that occurs, especially in inner cities. Further, studies link hardcore drug use and HIV/AIDS (human immunodeficiency virus/ acquired immune deficiency syndrome) transmission. Injecting drug users and their sexual partners account for nearly one-third of the reported AIDS cases and, in cities where the rate of HIV is high, women trading sex for crack-cocaine also have been identified as a growing source of HIV/AIDS transmission.

It is for these reasons that the Strategy makes the reduction of drug use by hardcore users its number-one priority.

The total 1995 funding request for drug treatment programs is \$2.9 billion, an increase of \$360 million (14 percent). Of this increase, \$355 million is targeted specifically for programs to reduce hardcore drug use and includes the following elements:

- \$310 million for the Department of Health and Human Services (HHS) Substance Abuse Prevention and Treatment Block grant;
- \$35 million for a new treatment demonstration program at HHS for the hardcore population; and
- \$10 million for the expansion of treatment services for American Indian and Alaska Native populations.

It is anticipated that these additional funds will provide treatment for up to an additional 74,000 hardcore drug users.<sup>2</sup>

Furthermore, it is expected that the enactment of the Crime Bill will provide substantially more resources for treatment of prisoners. It is estimated that funding provided by the Violent Crime Reduction Trust Fund could provide resources to treat as many as 65,000 additional hardcore drug users in prisons.

These initiatives will specifically support the following goals:

- Goal 1 by reducing the number of drug users. In this particular case, the number of hardcore drug users will be reduced significantly. The \$355 million treatment initiative, coupled with resources expected from the Crime Bill, will enable as many as 140,000 additional hardcore drug users, both in and out of the criminal justice system, to receive drug treatment.
- Goal 2 by closing the treatment gap by 9 percent by 1996. The treatment gap will continue to close by like amounts thereafter if resources for treatment are maintained. The Administration will continue to support additional resources in the future to close the treatment gap as well as to provide adequate capacity so that all those who seek treatment can receive it.
- Goal 9 by targeting hardcore drug users. Drug-related crime and violence will be reduced.

2. Ensuring Safe and Drug-Free Schools by Improving Prevention Efficacy. Drug use and drug-related violence interfere with learning in schools. Accordingly, to create safe and drug-free environments, the FY 1995 request includes \$660 million for school-based drug and violence prevention programs, an increase of \$191 million over the FY 1994 level for two programs within the Department of Education: the Safe and Drug-Free Schools and Communities State Grant Program and the Safe Schools Program.

This initiative will ensure that children can attend schools that are free of crime and violence. Under the FY 1995 request, every student in grades K-12 will have the opportunity to receive violence and drug and alcohol use prevention education. Further, these new programs will allow for the procurement of metal detectors and the hiring of security personnel in school districts that demonstrate high levels of drug-related crime as well as other crime and violence problems.

It is estimated that more than 40 million youths are exposed to prevention programs annually; this initiative will provide more

<sup>2</sup>The 74,000 users targeted for treatment from the \$355 million initiative are those most likely to require extensive residential treatment and aftercare. This distinguishes them from those users generally supported by the Substance Abuse Block Grant, who tend to receive treatment on a less costly out-patient basis. However, given the health and crime consequences associated with those most addicted, this initiative targets these users to reduce such consequences.

comprehensive programs than ever before. It specifically supports the following goals:

- Goal 1 by reducing the number of drug users. Once they are in safe learning environments, children can benefit from the prevention message. The 1992 Monitoring the Future Survey found drug use on the rise among students. This initiative seeks to reverse the recent increase in drug use among children.
- Goal 4 by helping communities develop effective prevention programs. By providing safe living and learning environments for youth, communities can ensure that every child in grades K-12 can participate in drug, alcohol, and violence prevention education.

3. Empowering Communities to Combat Drug-Related Violence and Crime. The FY 1995 quest includes resources to empower communities to confront their drug problem directly. A total of \$ 1.0 billion is requested for community-based efforts. Included in this amount is \$733 million for the Community Policing, Empowerment Zone, and Community Partnership Programs.

The drug component of the Community Policing effort to provide 100,000 police on the streets is \$585 million. Community policing has been acknowledged as a necessary first step to halt the cycle of community decay caused by drug use and trafficking and the violence it generates. By increasing police presence and expanding community policing, the FY 1995 request contributes directly to the following goals:

- Goal 5 by helping communities to create safe and healthy environments.
- Goal 9 by enabling communities to address drug use and related violence.

Empowerment activities are local efforts based on strategic, comprehensive plans. They offer the best way to coordinate government efforts across program and jurisdiction lines, contributing to the following goals:

- Goal 1 by reducing the number of drug users.
- Goal 2 by providing expanded treatment capacity and services.
- Goal 5 by creating safe and healthy environments in which children and adolescents can live, grow, learn, and develop.
- Goal 8 by linking treatment and prevention services to other supportive social services in the community through the broader community empowerment effort.

Also for drug-related prevention and treatment efforts, \$50 million is in the FY 1995 request for the drug-related portion of the Community Empowerment Program, which will be directed principally by the Department of Housing and Urban Development. This initiative is to support communities that prevent and remedy child neglect and abuse by providing residential and nonresidential drug and alcohol prevention and treatment programs that offer comprehensive services for pregnant women and mothers and their children.

Moreover, to ensure linkages of comprehensive, community-based services-especially prevention services at the local level-the FY

1995 budget requests \$115 million for the Community Partnership program. This funding will aid in the organization of community efforts to build and implement comprehensive, antidrug community strategies.

The funding for the Community Partnership program is maintained at the FY 1994 enacted level. However, about \$37 million of the total \$115 million request includes resources becoming available as a result of the completed grant cycle from partnerships funded in the past. In essence, these resources will be available for grants for new community partnerships in FY 1995.<sup>3</sup> Community Partnerships contribute to the following *Strategy* goals:

- Goal 1 by providing prevention services and linkages to treatment programs to reduce the number of drug users in the United States.
- Goal 4 by assisting local communities in developing effective prevention programs.
- Goal 5 by creating safe and healthy environments in which children can live, grow, learn, and develop.
- Goal 6 by reducing the use of alcohol and tobacco products among underage youth.
- Goal 8 by strengthening linkages among prevention, treatment, and criminal justice communities and other supportive social services.

Finally, to provide resources in the areas of high drug trafficking and use, the FY 1995 request for the ONDCP High Intensity Drug Trafficking Area Program (HIDTA) is \$98 million, an increase of \$12 million. The increase in funding will permit one additional HIDTA, bringing the total to six. The five HDTAs that currently exist are New York, Los Angeles, Miami, Houston, and the Southwest border. It is envisioned that a portion of the funds in FY 1995 will be used for services to reduce drug use by the hardcore population. This initiative contributes to the following goals:

- Goal 1 by reducing drug use, particularly in the newly proposed HIDTA that will target the problem of hardcore drug use.
- Goal 5 by helping communities to create safe and healthy environments.
- Goal 9 by enabling communities to address drug use and related violence.
- Goal 10 by enabling law enforcement to reduce domestic availability of illicit drugs and to target those who traffic in such drugs.
- Goal 11 by improving the efficiency of Federal drug law enforcement.

4. Increased International Program Efforts. The fourth major budget initiative supports supply reduction programs worldwide.

<sup>3</sup>For the most part, the Community Partnership grants have historically been awarded for 3 to 5 years. The current program allows the majority of the funds, approximately 80 percent, to be used for community development efforts, with only a small portion of the funds to be used for the implementation of the plan. With the newly available funds in FY 1995, this program will be restructured to allow the communities to use the majority of the funds for the provision of direct prevention services. Additionally, it will require the communities to demonstrate how they will continue their drug prevention efforts after the grant has expired.

The 1995 budget requests an increase of \$76 million for International Programs, of which \$72 million is for the Department of State and the Agency for International Development to support source country efforts to reduce the availability of illicit drugs through activities such as training of law enforcement, judicial reform, crop control, sustainable development, interdiction, and demand reduction efforts.

The 1995 request recognizes that drug policy must be an integral part of U.S. foreign policy and be pursued on a broad front of institution building, dismantling of drug-related organizations, and source country and transit zone interdiction. To improve the national response to organized international drug trafficking, the budget emphasizes programs that support a controlled shift of resources from the transit zones to the source countries. This initiative will directly contribute to the following goals:

- Goal 12 by strengthening international cooperation against illicit drug production, trafficking, and use.
- Goal 13 by assisting other countries in developing comprehensive counternarcotics policies, including those contributing to institution building and economic growth.
- Goal 14 by supporting law enforcement efforts to increase the costs and risks to traffickers.

#### OTHER FY 1995 BUDGET HIGHLIGHTS

There are several other notable changes in the *1994 National Drug Control Strategy*.

- Activities by the Corporation for National and Community Service programs will be enhanced by \$15 million, to a total of \$43 million, to address the educational, human service, public safety, and environmental needs of the Nation through volunteer activities.
- Research activities within the National Institutes of Health will increase by \$18 million, to a total of \$444 million.
- Immigration and Naturalization Service drug-related activities will increase by \$11 million, to a total of \$168 million.
- An increase of \$16 million for the job Training Partnership Act program to provide enhanced vocational training and rehabilitative services for the hardcore drug user.
- A decrease of \$52 million in the Coast Guard program largely due to the completion of the Operation Bahamas and Turks and Caicos Helicopter Replacement program.
- Funding for Department of Defense activities has increased slightly by \$6 million, to a total of \$874 million. However, this request is still down by \$266 million from its FY 1993 level.
- Funding for the formula portion of the Byrne grant has been eliminated. However, the discretionary amount has been doubled to \$100 million. It is anticipated that the activities conducted under the formula grant will be carried out under grants authorized by the pending Crime Bill.
- The air and marine programs within the Customs Service have been reduced by \$31 million to a total Customs Service drug-related request of \$506 million. However, this reduction will not impact the operation of the P-3 air surveillance program.

## PROGRAM LINKAGES

The *1994 National Drug Control Strategy* recognizes the importance of Federal, State, and local government program linkages and the need for grassroots level efforts rather than top-down Federal-to-local programs to deal with the drug problems. There must be a commitment by all levels of government for programs to succeed at the community level.

To that end, there is a strong need for better cross-agency coordination with regard to drug programs as well as more flexibility for communities to allocate resources in areas that will best meet their particular circumstances. The Community Empowerment program holds great promise for enabling communities to better coordinate Federal spending, but more can be done.

To carry out this priority, ONDCP will work with Federal agencies to encourage program linkages at the local level to improve program delivery. For example, there is a need for treatment providers to be better linked to provide a more comprehensive package of services so that hardcore drug users can function in society by reducing or eliminating their drug use. ONDCP will encourage such agencies to enter into interagency agreements, cooperative agreements, and memoranda of understanding to better meet the drug services needs in communities.

## NATIONAL FUNDING PRIORITIES FOR FY 1996 TO FY 1998

The Administration will vigorously pursue funding for the following program areas to reduce drug use and its consequences to the individual and society and to reduce the availability of illicit drugs in the United States. The following are the funding priorities for FY 1996 to FY 1998:

- Expand treatment capacity and services and increase treatment effectiveness so that those who need treatment can receive it.
- Enhance prevention programs that target youth, reducing underage use of illicit drugs, alcohol, and tobacco products.
- Support programs at the local level that create safe and healthy environments in which children and adolescents can live, grow, learn, and develop.
- Focus increased efforts on programs that assist local communities in developing effective prevention programs.
- Increase workplace safety and productivity by reducing drug use on the job.
- Strengthen multiagency linkages among prevention, treatment, and criminal justice programs as well as other supportive social services to better serve the needs of the communities.
- Support programs that reduce domestic drug-related crime and violence.
- Enhance programs that reduce all domestic drug production and availability, and continue to target for investigation and prosecution those who illegally manufacture and distribute drugs and who illegally divert pharmaceuticals and listed chemicals.

- Support enhancements to programs that strengthen international cooperation and actions against narcotics production, trafficking, and use.

**Exhibit 1-2****Goals of the 1994 National Drug Control Strategy**

- Goal 1:** Reduce the number of drug users in America.
- Goal 2:** Expand treatment capacity and services and increase treatment effectiveness so that those who need treatment can receive it. Target intensive treatment services for hardcore drug-using populations and special populations, including adults and adolescents in custody or under the supervision of the criminal justice system, pregnant women, and women with dependent children.
- Goal 3:** Reduce the burden on the health care system by reducing the spread of infectious disease related to drug use.
- Goal 4:** Assist local communities in developing effective prevention programs.
- Goal 5:** Create safe and healthy environments in which children and adolescents can live, grow, learn, and develop.
- Goal 6:** Reduce the use of alcohol and tobacco products among underage youth.
- Goal 7:** Increase workplace safety and productivity by reducing drug use in the workplace.
- Goal 8:** Strengthen linkages among the prevention, treatment, and criminal justice communities and other supportive social services, such as employment and training services.
- Goal 9:** Reduce domestic drug-related crime and violence.
- Goal 10:** Reduce all domestic drug production and availability, and continue to target for investigation and prosecution those who illegally import, manufacture, and distribute dangerous drugs and who illegally divert pharmaceuticals and listed chemicals.
- Goal 11:** Improve the efficiency of Federal drug law enforcement capabilities, including interdiction and intelligence programs.
- Goal 12:** Strengthen international cooperation against narcotics production, trafficking, and use.
- Goal 13:** Assist other nations to develop and implement comprehensive counternarcotics policies that strengthen democratic institutions, destroy narcotrafficking organizations, and interdict narcotrafficking in both the source and transit countries.
- Goal 14:** Support, implement, and lead more successful enforcement efforts to increase the costs and risks to narcotics producers and traffickers to reduce the supply of illicit drugs to the United States.



## Federal Drug Control Spending by Function, FY 1993-FY 1995

(Budget Authority in Millions)

Drug Function	FY 1993 Actual	FY 1994 Estimate	FY 1995 President's Request	FY 94-FY 95 Change	
				\$	%
Criminal Justice System	5,685.1	5,700.4	5,926.9	226.6	4.0%
Drug Treatment	2,339.1	2,514.1	2,874.4	360.3	14.3%
Education, Community Action, and the Workplace	1,556.5	1,602.4	2,050.7	448.2	28.0%
International	523.4	351.4	427.8	76.4	21.7%
Interdiction	1,511.1	1,299.9	1,205.6	(94.3)	-7.3%
Research	499.1	504.6	531.6	27.0	5.3%
Intelligence	150.9	163.4	162.8	(0.6)	-0.4%
<b>Total</b>	<b>12,265.3</b>	<b>12,136.2</b>	<b>13,179.8</b>	<b>1,043.6</b>	<b>8.6%</b>
<b>Four-Way Split</b>					
Demand Reduction	4,301.9	4,544.0	5,370.5	826.5	18.2%
	35.1%	37.4%	40.7%		
Domestic Law Enforcement	5,928.9	5,941.0	6,175.9	235.0	4.0%
	48.3%	49.0%	46.9%		
International	523.4	351.4	427.8	76.4	21.7%
	4.3%	2.9%	3.2%		
Interdiction	1,511.1	1,299.9	1,205.6	(94.3)	-7.3%
	12.3%	10.7%	9.1%		
<b>Total</b>	<b>12,265.3</b>	<b>12,136.2</b>	<b>13,179.8</b>	<b>1,043.6</b>	<b>8.6%</b>
<b>Supply/Demand Split</b>					
Supply	7,963.4	7,592.3	7,809.4	217.1	2.9%
	64.9%	62.6%	59.3%		
Demand	4,301.9	4,544.0	5,370.5	826.5	18.2%
	35.1%	37.4%	40.7%		
<b>Total</b>	<b>12,265.3</b>	<b>12,136.2</b>	<b>13,179.8</b>	<b>1,043.6</b>	<b>8.6%</b>
<b>Demand Components</b>					
Prevention (w/o research)	1,556.5	1,602.4	2,050.7	448.2	28.0%
Treatment (w/o research)	2,339.1	2,514.1	2,874.4	360.3	14.3%
Research	406.3	427.4	445.4	18.0	4.2%
<b>Total, Demand</b>	<b>4,301.9</b>	<b>4,544.0</b>	<b>5,370.5</b>	<b>826.5</b>	<b>18.2%</b>
(Detail may not add to totals due to rounding)					

**Drug Control Funding: Agency Summary, FY 1993-FY 1995**

(Budget Authority in Millions)

	FY 1993 Actual	FY 1994 Estimate	FY 1995 President's Request
<b>Department of Agriculture</b>			
Agricultural Research Service	6.5	6.5	6.5
U.S. Forest Service	9.6	9.6	9.8
Special Supplemental Program for Women, Infants, and Children (WIC)	12.9	14.6	14.8
<b>Total, Agriculture</b>	<b>28.9</b>	<b>30.7</b>	<b>31.0</b>
<b>Corporation for National and Community Service</b>	<b>9.7</b>	<b>28.5</b>	<b>43.0</b>
<b>Department of Defense</b>	<b>1,140.7</b>	<b>868.2</b>	<b>874.2</b>
<b>Department of Education</b>	<b>700.8</b>	<b>599.1</b>	<b>782.3</b>
<b>Department of Health and Human Services</b>			
Administration for Children and Families	88.9	89.9	89.9
Centers for Disease Control and Prevention	31.2	36.6	36.6
Food and Drug Administration	6.8	6.8	6.8
Health Care Financing Administration	231.9	261.8	292.2
Health Resources and Services Administration	20.9	33.4	38.7
Indian Health Service	44.9	43.3	51.2
National Institutes of Health (NIH)	404.2	425.2	443.7
Social Security Administration	4.6	20.0	22.8
Substance Abuse and Mental Health Administration	1,299.0	1,360.9	1,603.2 <sup>1</sup>
<b>Total, HHS</b>	<b>2,132.4</b>	<b>2,278.1</b>	<b>2,585.2</b>
<b>Department of Housing and Urban Development</b>	<b>175.0</b>	<b>315.0</b>	<b>315.0</b>
<b>Department of the Interior</b>			
Bureau of Indian Affairs	19.4	22.4	18.1
Bureau of Land Management	10.0	5.2	5.2
Fish and Wildlife Service	1.0	1.0	1.0
National Park Service	8.7	8.8	8.8
Office of Territorial and International Affairs	1.4	1.3	1.0
<b>Total, Interior</b>	<b>40.6</b>	<b>38.7</b>	<b>34.1</b>
<b>The Federal Judiciary</b>	<b>405.6</b>	<b>452.9</b>	<b>505.5</b>
<b>Department of Justice</b>			
Assets Forfeiture Fund	484.3	575.6	487.0
U.S. Attorneys	207.2	207.9	208.7
Bureau of Prisons	1,432.3	1,407.7	1,670.2
Crime Control Fund	0.0	0.0	567.6
Criminal Division	18.0	19.1	19.2
Drug Enforcement Administration	756.6	768.1	767.1
Federal Bureau of Investigation	257.0	257.2	262.4
Immigration and Naturalization Service	147.0	157.4	168.3
INTERPOL	1.9	1.9	2.0
U.S. Marshals Service	247.9	235.1	255.6
Office of Justice Programs	661.4	520.1	135.7
Organized Crime Drug Enforcement Task Forces	385.2	382.4	369.9
Support of U.S. Prisoners	196.8	222.1	262.6

(Detail may not add to totals due to rounding)

<sup>1</sup> Excludes \$45.0 million that will be transferred from the ONDCP Special Forfeiture Fund for hardcore drug treatment.

Drug Control Funding: Agency Summary, FY 1993–FY 1995			
	(Budget Authority in Millions)		
	FY 1993 Actual	FY 1994 Estimate	FY 1995 President's Budget
<b>Department of Justice (continued)</b>			
Tax Division	1.2	1.2	1.2
Weed and Seed Program Fund	6.6	6.6	6.7
<b>Total, Justice</b>	<b>4,803.3</b>	<b>4,762.5</b>	<b>5,184.3</b>
<b>Department of Labor</b>	<b>65.1</b>	<b>64.8</b>	<b>80.5</b>
<b>Office of National Drug Control Policy</b>			
Operations	15.2	11.7	10.0
High Intensity Drug Trafficking Areas	86.0	86.0	98.0
Gift Fund	0.2	0.3	0.0
Special Forfeiture Fund	15.0	12.5	52.5
<b>Total, ONDCP</b>	<b>116.4</b>	<b>110.5</b>	<b>160.5</b>
<b>Small Business Administration</b>	<b>0.2</b>	<b>0.2</b>	<b>0.2</b>
<b>Department of State</b>			
Bureau of International Narcotics Matters <sup>2</sup>	147.8	100.0	—
Bureau of Politico/Military Affairs <sup>2</sup>	52.3	15.4	—
Emergencies in the Diplomatic and Consular Service	0.1	0.3	0.3
International Narcotics Control Program	—	—	231.8
<b>Total, State</b>	<b>200.2</b>	<b>115.7</b>	<b>232.1</b>
<b>Agency for International Development<sup>2</sup></b>	<b>139.8</b>	<b>44.9</b>	<b>—</b>
<b>Department of Transportation</b>			
U.S. Coast Guard	310.5	314.6	263.1
Federal Aviation Administration	21.0	24.8	16.5
National Highway Traffic Safety Administration	23.8	34.4	27.7
<b>Total, Transportation</b>	<b>355.3</b>	<b>373.8</b>	<b>307.3</b>
<b>Department of the Treasury</b>			
Bureau of Alcohol, Tobacco, and Firearms	151.0	153.8	153.5
U.S. Customs Service	561.0	536.1	505.5
Federal Law Enforcement Training Center	21.9	20.5	18.2
Financial Crimes Enforcement Network	14.7	14.6	15.7
Internal Revenue Service	91.8	90.3	94.6
U.S. Secret Service	56.6	57.1	57.3
Treasury Forfeiture Fund	143.5	230.2	208.8
<b>Total, Treasury</b>	<b>1,040.5</b>	<b>1,102.6</b>	<b>1,053.6</b>
<b>U.S. Information Agency</b>	<b>9.3</b>	<b>9.8</b>	<b>10.0</b>
<b>Department of Veterans Affairs</b>	<b>901.5</b>	<b>940.3</b>	<b>981.1</b>
<b>Total Federal Program</b>	<b>12,265.3</b>	<b>12,136.2</b>	<b>13,179.8</b>
<b>Supply Reduction</b>	<b>7,963.4</b> <b>64.9%</b>	<b>7,592.3</b> <b>62.6%</b>	<b>7,809.4</b> <b>59.3%</b>
<b>Demand Reduction</b>	<b>4,301.9</b> <b>35.1%</b>	<b>4,544.0</b> <b>37.4%</b>	<b>5,370.5</b> <b>40.7%</b>
(Detail may not add to totals due to rounding)			

<sup>2</sup> The funding estimates for these accounts in FY 1995 have been incorporated in the Department of State's International Narcotics Control Program request as part of a planned consolidation. (See page 133 for program description.)

## NATIONAL DRUG CONTROL BUDGET BY FUNCTION, FY 1981-1995

(\$ Millions)	1981	1982	1983	1984	1985	1986
<b>INTERDICTION</b>						
Department of Defense	0.0	4.9	9.7	14.6	54.8	105.7
Bureau of Land Management	0.0	0.0	0.0	0.0	0.0	0.0
Office of Territorial & Int'l Affairs	0.0	0.0	0.0	0.0	0.0	0.0
Immigration and Naturalization Service	0.2	0.2	0.3	0.4	0.4	0.7
U.S. Coast Guard	227.5	328.9	359.9	508.2	506.6	397.8
Federal Aviation Administration	0.1	0.1	0.1	0.1	0.1	0.1
U.S. Customs	122.0	124.0	103.6	183.7	245.3	239.7
Payments to Puerto Rico	0.0	0.0	0.0	0.0	0.0	0.0
Total, Interdiction	349.7	458.0	473.5	706.9	807.3	744.0
<b>INVESTIGATIONS</b>						
U.S. Forest Service	0.0	0.0	0.0	0.1	0.4	0.3
Bureau of Indian Affairs	0.7	0.8	0.8	0.8	1.9	1.7
Bureau of Land Management	0.0	0.0	0.0	0.0	0.0	0.4
National Park Service	0.1	0.2	0.5	0.7	0.8	0.2
Drug Enforcement Administration	124.2	140.5	143.7	178.0	211.1	252.9
Federal Bureau of Investigation	7.7	11.3	101.5	84.5	103.6	103.2
Immigration & Naturalization Service	0.1	0.1	0.1	0.1	0.1	5.5
U.S. Marshals	3.2	3.7	4.0	5.3	7.4	6.8
Organized Crime Drug Enforcement T.F.	0.0	0.0	0.0	0.0	0.0	0.0
Bureau of Alcohol, Tobacco & Firearms	24.6	17.6	27.7	33.7	40.4	27.6
U.S. Customs	11.4	13.9	30.4	39.6	44.7	52.2
Federal Law Enforcement Training Center	0.9	0.9	1.0	1.5	2.6	4.4
Internal Revenue Service	28.3	34.0	41.2	43.5	48.8	53.9
U.S. Secret Service	10.2	12.9	18.0	22.3	27.2	28.7
Total, Investigations	211.3	235.9	369.1	410.1	489.0	537.8
<b>INTERNATIONAL</b>						
Agency for International Development	0.0	15.7	9.2	10.6	6.7	23.5
DoD (506(A)(2) & Excess Def. Articles)	0.0	0.0	0.0	0.0	0.0	0.0
Assets Forfeiture Fund	0.0	0.0	0.0	0.0	0.0	0.0
Drug Enforcement Administration	31.0	34.3	36.9	42.8	51.0	67.7
International Narcotics Control Program	0.0	0.0	0.0	0.0	0.0	0.0
Federal Bureau of Investigation	0.0	0.0	0.0	0.0	0.0	0.0
Office of National Drug Control Policy	0.0	0.0	0.0	0.0	0.0	0.0
International Narcotics Matters	34.7	36.7	36.7	41.2	50.2	55.1
INTERPOL	0.1	0.1	0.1	0.1	0.1	0.2
U.S. Marshals	0.0	0.0	0.0	0.1	0.2	0.2
Treasury Forfeiture Fund	0.0	0.0	0.0	0.0	0.0	0.0
Bureau of Politico/Military Affairs	0.0	0.0	0.0	0.0	0.0	0.0
Emerg. Diplomatic & Consular Service	0.0	0.0	0.0	0.0	0.0	0.0
U.S. Information Agency	1.0	1.0	1.0	1.0	1.0	1.0
Total, International	66.8	87.8	83.9	95.8	109.2	147.7
<b>PROSECUTION</b>						
Judiciary	26.3	30.5	33.0	41.2	52.4	68.0
U.S. Attorneys	19.5	20.9	32.7	47.7	54.8	57.3
Criminal Division	1.6	1.9	1.8	1.9	2.7	2.7
U.S. Marshals	23.1	25.6	27.0	30.6	40.6	45.2
Organized Crime Drug Enforcement TF	0.0	0.0	0.0	0.0	0.0	0.0
Tax Division	0.0	0.0	0.8	0.8	1.6	2.0
Total, Prosecution	70.6	78.9	95.3	122.2	152.1	175.3

1987	1988	1989	1990	1991	1992	1993	1994	1995 Request
405.3	94.7	329.1	543.4	751.0	854.4	631.5	432.5	427.8
0.0	0.0	0.0	0.2	0.2	2.3	2.7	0.0	0.0
0.0	0.0	0.5	1.0	1.3	0.8	0.8	0.5	0.3
17.2	17.5	52.0	48.6	62.6	67.7	71.0	75.6	77.4
553.0	509.8	628.9	661.2	714.6	431.2	308.1	313.4	262.1
0.1	0.8	3.2	9.3	16.5	15.1	12.2	17.8	8.9
367.1	317.5	427.0	488.3	481.8	588.8	484.9	460.1	429.1
7.8	7.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1,350.5	948.1	1,440.7	1,751.9	2,027.9	1,960.2	1,511.1	1,299.9	1,205.6
0.3	0.4	0.4	3.0	6.3	6.2	6.3	6.4	6.6
3.6	2.3	7.6	11.8	11.1	18.5	15.2	17.5	14.5
0.5	0.9	0.7	4.9	4.9	4.7	5.4	4.7	4.7
1.2	1.2	0.9	5.7	10.9	10.8	8.3	8.4	8.3
325.1	327.3	375.2	338.2	433.1	455.4	468.0	471.0	472.7
134.6	172.6	198.4	127.5	152.3	181.3	207.5	201.1	204.3
9.8	17.1	28.5	29.3	27.6	31.7	33.7	35.1	41.5
8.8	11.2	28.7	39.1	44.2	36.0	30.2	29.8	32.0
0.0	0.0	0.0	160.5	252.8	308.8	289.0	288.3	278.6
60.1	78.6	87.4	94.2	120.0	133.0	147.7	149.8	150.0
63.1	75.1	83.6	130.7	57.4	59.1	59.3	59.2	60.6
6.5	7.3	17.7	17.2	20.8	16.8	21.9	20.5	18.2
61.6	70.4	84.3	81.0	93.2	102.8	91.8	90.3	94.6
37.1	40.5	46.2	47.3	53.6	42.9	56.6	57.1	57.3
712.2	804.8	959.7	1,090.4	1,288.2	1,408.0	1,440.9	1,439.2	1,443.8
7.1	9.9	13.3	54.5	189.6	250.2	134.8	35.0	0.0
0.0	0.0	65.0	53.3	0.0	0.0	0.0	0.0	0.0
0.0	0.0	0.0	0.0	0.0	12.4	0.0	12.5	12.5
91.1	97.4	97.6	141.3	172.4	161.4	172.6	170.7	168.5
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	227.8
1.3	1.1	1.1	1.5	1.8	2.2	3.0	4.3	4.3
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0
118.4	98.8	101.0	129.5	150.0	144.8	147.8	100.0	0.0
0.6	0.8	0.7	1.1	1.3	1.9	1.9	1.9	2.0
0.3	0.5	0.6	0.9	3.5	2.6	1.5	1.5	1.5
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
0.0	0.0	21.6	114.5	107.6	75.3	52.3	15.4	0.0
0.0	0.0	0.3	0.0	0.0	0.0	0.1	0.3	0.3
2.0	1.0	2.8	3.4	7.3	9.7	9.3	9.8	10.0
220.9	209.3	304.0	500.1	633.4	660.4	523.4	351.4	427.8
100.1	133.4	146.3	152.8	179.0	233.8	269.4	296.3	325.6
74.2	80.7	132.0	126.8	161.5	206.7	207.2	207.9	208.7
3.3	9.4	13.3	10.6	18.5	20.2	18.0	19.1	19.2
56.7	79.9	95.1	118.0	154.8	179.0	216.2	203.7	222.1
0.0	0.0	0.0	46.8	68.5	76.2	80.1	79.8	77.3
2.0	2.2	2.2	0.9	1.1	1.1	1.2	1.2	1.2
236.3	305.6	388.9	455.9	583.4	716.9	792.0	808.1	854.1

## NATIONAL DRUG CONTROL BUDGET BY FUNCTION, FY 1981-1995

(\$ Millions)	1981	1982	1983	1984	1985	1986
<b>CORRECTIONS</b>						
Judiciary	7.0	8.2	8.8	11.0	14.0	18.2
Bureau of Prisons	74.7	97.9	118.1	121.4	182.1	219.5
Immigration and Naturalization Service	0.0	0.0	0.0	0.0	0.0	0.0
Support of Prisoners	5.9	8.0	13.1	16.4	19.5	21.1
Special Forfeiture Fund (ONDCP)	0.0	0.0	0.0	0.0	0.0	0.0
Total, Corrections	87.6	114.1	140.0	148.8	215.6	258.8
<b>INTELLIGENCE</b>						
U.S. Forest Service	0.0	0.0	0.0	0.0	0.0	0.0
Drug Enforcement Administration	20.9	23.0	21.5	23.6	25.4	25.0
Federal Bureau of Investigation	0.6	0.6	5.3	4.5	5.5	5.4
Immigration and Naturalization Service	0.0	0.0	0.0	0.0	0.0	0.3
Organized Crime Drug Enforcement TF	0.0	0.0	0.0	0.0	0.0	0.0
Special Forfeiture Fund (ONDCP)	0.0	0.0	0.0	0.0	0.0	0.0
U.S. Customs	1.6	2.0	2.4	2.8	4.5	4.9
Financial Crimes Enforcement Network	0.0	0.0	0.0	0.0	0.0	0.0
Total, Intelligence	23.1	25.6	29.2	30.9	35.4	35.6
<b>STATE AND LOCAL ASSISTANCE</b>						
U.S. Forest Service	0.4	0.4	0.4	2.0	2.2	2.2
Department of Defense	0.0	0.0	0.0	0.0	0.0	0.0
Bureau of Indian Affairs	1.0	1.1	1.1	1.2	1.2	2.8
Bureau of Land Management	0.0	0.0	0.2	0.2	0.2	0.7
Fish and Wildlife Service	0.1	0.1	0.2	0.2	0.4	0.3
Asset Forfeiture Fund	0.0	0.0	0.0	0.0	0.0	17.0
Treasury Forfeiture Fund	0.0	0.0	0.0	0.0	0.0	0.0
Bureau of Prisons	0.0	0.0	0.0	0.0	0.0	0.0
Drug Enforcement Administration	21.6	19.2	23.9	22.6	29.2	12.5
Office of Justice Programs	4.5	4.2	6.7	7.2	12.0	12.7
Organized Crime Drug Enforcement TF	0.0	0.0	0.0	0.0	0.0	0.0
Weed & Seed Program Fund	0.0	0.0	0.0	0.0	0.0	0.0
Office of National Drug Control Policy	0.0	0.0	0.0	0.0	0.0	0.0
Nat'l Highway Traffic Safety Admin.	0.0	0.0	0.0	0.0	0.0	0.0
U.S. Customs	0.0	0.0	0.0	0.0	6.0	13.5
Total, State and Local Assistance	27.6	25.0	32.5	33.4	51.2	61.7
<b>REGULATORY AND COMPLIANCE</b>						
U.S. Forest Service	0.1	0.3	0.3	0.4	0.2	0.6
Food & Drug Administration	1.4	0.8	0.7	0.7	0.7	1.6
Drug Enforcement Administration	17.0	20.3	25.0	21.9	25.0	12.3
Bureau of Alcohol, Tobacco & Firearms	0.0	0.0	0.0	0.0	0.0	0.0
Total, Regulatory and Compliance	18.5	21.4	26.0	23.0	25.9	14.5
<b>OTHER LAW ENFORCEMENT</b>						
Asset Forfeiture Fund	0.0	0.0	0.0	0.0	0.0	26.0
Crime Control Fund	0.0	0.0	0.0	0.0	0.0	0.0
Treasury Forfeiture Fund	0.0	0.0	0.0	0.0	0.0	0.0
Office of National Drug Control Policy	0.0	0.0	0.0	0.0	0.0	0.0
Special Forfeiture Fund (ONDCP)	0.0	0.0	0.0	0.0	0.0	0.0
Total, Other Law Enforcement	0.0	0.0	0.0	0.0	0.0	26.0

1987	1988	1989	1990	1991	1992	1993	1994	1995 Request
26.8	35.7	39.2	73.4	80.5	89.6	95.6	109.8	126.1
339.1	465.3	772.1	1,553.8	1,011.0	1,226.8	1,403.7	1,379.6	1,641.5
4.0	34.5	45.0	41.5	38.4	40.0	40.5	44.8	47.4
27.9	53.3	77.1	112.0	135.1	164.1	196.8	222.1	262.6
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
397.8	588.8	933.4	1,780.7	1,265.1	1,520.5	1,736.5	1,756.4	2,077.7
0.0	0.1	0.1	0.1	0.2	0.4	0.4	0.4	0.5
36.2	34.4	32.3	39.0	43.9	53.2	67.1	73.4	71.7
7.1	9.1	10.4	9.6	23.6	17.4	39.6	48.0	49.1
0.2	0.9	0.8	0.8	1.0	1.3	1.4	1.4	1.5
0.0	0.0	0.0	4.1	7.8	0.0	15.7	13.9	13.6
0.0	0.0	0.0	0.0	5.0	0.0	0.0	0.0	0.0
3.7	8.3	9.8	11.4	12.1	13.1	13.1	13.1	12.3
0.0	0.0	0.0	0.0	10.6	13.1	13.5	13.1	14.2
47.2	52.8	53.4	64.9	104.1	98.6	150.9	163.4	162.8
1.9	2.0	2.0	2.0	2.7	2.3	2.4	2.3	2.1
0.0	0.0	27.6	107.4	144.0	189.0	375.0	320.3	317.2
5.4	3.4	0.4	0.4	0.5	0.6	0.6	0.7	0.7
0.6	0.6	0.5	1.5	1.5	1.5	1.5	0.2	0.2
0.4	0.4	0.0	0.8	1.0	1.0	1.0	1.0	1.0
47.0	76.0	157.3	176.8	266.8	181.9	204.8	212.5	228.5
0.0	0.0	0.0	0.0	0.0	0.0	67.5	91.4	88.2
0.0	0.0	4.1	5.1	5.8	6.2	7.5	6.4	6.5
13.2	11.4	13.8	15.6	16.1	16.1	16.7	17.3	18.2
214.6	71.5	126.6	348.4	413.0	425.0	547.5	409.8	88.4
0.0	0.0	0.0	3.5	5.0	5.1	0.0	0.0	0.0
0.0	0.0	0.0	0.0	0.0	0.0	6.6	6.6	6.7
0.0	0.0	0.0	0.0	32.9	36.0	36.0	47.0	53.2
0.0	0.0	1.8	5.1	6.7	8.0	0.0	0.0	0.0
24.5	21.2	0.0	29.9	119.4	120.0	0.0	0.0	0.0
307.5	186.5	334.1	696.5	1,015.5	992.7	1,267.0	1,115.4	810.9
1.0	2.7	2.6	0.0	0.0	0.0	0.0	0.0	0.0
1.6	1.6	6.5	7.2	6.5	6.7	6.8	6.8	6.8
15.3	16.9	19.1	19.1	21.7	21.8	30.3	33.8	34.2
0.0	0.7	1.6	2.2	3.2	2.9	3.3	4.0	3.6
17.9	21.9	29.8	28.5	31.4	31.4	40.4	44.6	44.6
73.0	85.0	114.3	156.5	154.3	217.7	279.5	350.6	246.0
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	283.8
0.0	0.0	0.0	0.0	0.0	0.0	76.0	138.8	120.6
0.0	0.0	1.2	29.0	46.7	55.7	52.8	44.2	45.4
0.0	0.0	0.0	0.0	1.0	0.0	0.0	3.0	0.0
73.0	85.0	115.5	185.5	202.0	273.4	408.3	536.6	695.8

## NATIONAL DRUG CONTROL BUDGET BY FUNCTION, FY 1981-1995

(\$ Millions)	1981	1982	1983	1984	1985	1986
<b>RESEARCH AND DEVELOPMENT</b>						
Agricultural Research Service	1.4	1.4	1.4	1.4	1.4	1.3
U.S. Forest Service	0.0	0.0	0.0	0.1	0.2	0.0
Department of Defense	0.0	0.0	0.0	0.0	0.0	0.0
Drug Enforcement Administration	1.4	1.8	3.9	2.9	2.2	1.5
Federal Bureau of Investigation	0.0	0.0	0.0	0.0	0.0	0.0
Immigration and Naturalization Service	0.0	0.0	0.0	0.0	0.0	0.0
Office of Justice Programs	0.0	0.2	2.2	0.3	0.9	2.7
Organized Crime Drug Enforcement TF	0.0	0.0	0.0	0.0	0.0	0.0
Office of National Drug Control Policy	0.0	0.0	0.0	0.0	0.0	0.0
Special Forfeiture Fund (ONDCP)	0.0	0.0	0.0	0.0	0.0	0.0
Financial Crimes Enforcement Network	0.0	0.0	0.0	0.0	0.0	0.0
U.S. Coast Guard	0.3	0.3	0.2	0.4	1.5	3.6
Federal Aviation Administration	0.0	0.0	0.0	0.0	0.0	0.0
NHTSA	0.0	0.0	0.0	0.0	0.0	0.0
U.S. Customs	1.8	1.6	1.5	1.2	1.5	1.3
Pres. Com. Organized Crime	0.0	0.0	0.2	1.6	2.2	1.0
ADAMHA - Prevention	30.1	24.1	26.4	32.0	35.8	40.8
NIH/NIDA - Prevention	0.0	0.0	0.0	0.0	0.0	0.0
ADAMHA - Treatment	41.5	33.2	35.3	39.1	45.4	44.6
NIH/NIDA - Treatment	0.0	0.0	0.0	0.0	0.0	0.0
Dept. of Veterans Affairs - Treatment	0.0	2.0	2.5	2.7	2.7	2.3
Total, Research and Development	76.5	64.7	73.6	81.7	93.8	99.0
<b>DRUG ABUSE PREVENTION</b>						
Corp. for National and Comm. Service	2.5	6.8	6.9	6.8	6.9	6.9
Agency for International Development	0.0	0.0	0.0	0.0	1.2	1.9
U.S. Forest Service	0.0	0.0	0.0	0.0	0.0	0.0
Women, Infants, & Children	0.0	0.0	0.0	0.0	0.0	0.0
Department of Defense	21.2	36.2	46.4	49.8	63.0	63.4
Department of Education	2.9	2.9	2.9	2.9	3.0	2.9
Administration for Children and Families	0.0	0.0	0.0	0.0	0.0	0.0
ADAMHA	16.1	30.0	32.5	32.1	34.1	32.6
SAMHSA	0.0	0.0	0.0	0.0	0.0	0.0
Centers for Disease Control	0.0	0.0	0.0	0.0	0.0	0.0
Family Support Administration	0.0	0.0	0.0	0.0	0.0	0.0
Human Development Services	0.0	0.0	0.0	0.0	0.0	0.0
Indian Health Service	0.0	0.0	0.0	0.0	0.0	0.0
Dept. of Housing & Urban Development	0.0	0.0	0.0	0.0	0.0	0.0
Bureau of Indian Affairs	0.0	0.0	0.0	0.0	0.0	0.0
Bureau of Land Management	0.0	0.0	0.0	0.0	0.0	0.0
National Park Service	0.0	0.0	0.0	0.0	0.0	0.0
Office of Territorial and Int'l Affairs	0.0	0.0	0.0	0.0	0.0	0.0
Drug Enforcement Administration	0.0	0.0	0.0	0.1	0.1	0.4
Office of Justice Programs	0.0	0.0	0.0	0.0	0.0	3.3
Crime Control Fund	0.0	0.0	0.0	0.0	0.0	0.0
Department of Labor	43.4	25.9	35.8	36.0	37.3	33.1



1987	1988	1989	1990	1991	1992	1993	1994	1995 Request
1.4	1.3	1.3	1.5	6.4	6.5	6.5	6.5	6.5
0.0	0.0	0.1	0.1	0.5	0.5	0.5	0.5	0.5
0.0	0.0	0.0	11.6	61.0	91.6	34.1	30.0	39.5
4.3	3.2	2.7	2.9	3.0	0.0	0.0	0.0	0.0
0.0	0.0	0.0	0.0	2.6	3.8	6.8	3.8	4.7
0.0	0.0	0.1	0.1	1.0	0.5	0.4	0.5	0.5
4.7	9.6	11.6	14.7	17.9	16.7	18.1	16.3	17.4
0.0	0.0	0.0	0.0	0.4	0.4	0.4	0.4	0.4
0.0	0.0	0.0	0.0	8.5	1.5	1.9	2.8	1.5
0.0	0.0	0.0	0.0	0.0	20.0	15.0	7.5	7.5
0.0	0.0	0.0	0.0	2.2	1.0	1.2	1.5	1.5
4.1	4.1	4.0	4.0	4.0	5.2	2.4	1.2	1.0
0.0	0.0	0.0	0.0	0.0	0.7	1.0	1.0	1.0
0.0	0.0	0.2	0.2	0.5	0.5	0.8	1.6	0.7
1.1	3.7	4.8	4.7	3.4	3.7	3.7	3.7	3.5
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
65.9	73.4	81.0	127.7	150.6	157.5	0.0	0.0	0.0
0.0	0.0	0.0	0.0	0.0	0.0	164.3	174.8	181.0
74.1	74.4	122.7	158.1	185.7	191.8	0.0	0.0	0.0
0.0	0.0	0.0	0.0	0.0	0.0	239.9	250.4	262.7
2.0	2.1	2.2	2.1	2.2	2.7	2.1	2.2	1.7
157.6	171.8	230.6	327.7	450.1	504.5	499.1	504.6	531.6
7.8	5.9	10.1	10.5	12.5	10.0	9.7	28.5	43.0
5.2	4.5	3.1	5.4	7.1	7.8	5.0	9.9	0.0
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.1
0.0	0.0	0.0	0.0	0.0	0.0	12.9	14.6	14.8
77.8	83.8	69.7	66.8	71.5	73.6	89.1	75.9	79.9
203.0	229.8	354.5	541.7	609.1	626.1	601.4	490.5	663.9
0.0	0.0	0.0	0.0	74.8	79.4	57.0	57.5	57.5
98.4	85.2	150.7	329.7	420.1	441.6	0.0	0.0	0.0
0.0	0.0	0.0	0.0	0.0	0.0	418.9	435.5	437.3
0.0	0.0	20.0	25.2	29.3	28.6	31.2	36.6	36.6
0.0	0.0	3.0	2.0	0.0	0.0	0.0	0.0	0.0
0.0	0.0	43.9	57.1	0.0	0.0	0.0	0.0	0.0
0.0	0.0	0.0	2.7	2.9	3.0	3.2	4.3	3.5
0.0	0.0	8.2	98.3	150.0	165.0	175.0	290.0	290.0
3.5	0.8	2.6	2.2	3.1	3.6	3.6	4.2	2.9
0.0	0.0	0.1	0.3	0.3	0.4	0.4	0.4	0.4
0.0	0.0	0.2	0.4	0.4	0.3	0.4	0.4	0.4
0.0	0.0	0.0	0.1	0.4	0.7	0.6	0.8	0.7
0.9	1.9	2.2	2.2	2.2	2.1	1.9	1.9	1.8
3.7	7.4	13.0	34.2	21.6	21.3	44.5	43.7	14.0
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	283.8
41.1	37.5	38.6	46.0	60.9	61.5	65.1	64.8	80.5

## NATIONAL DRUG CONTROL BUDGET BY FUNCTION, FY 1981-1995

(\$ Millions)	1981	1982	1983	1984	1985	1986
<b>DRUG ABUSE PREVENTION (continued)</b>						
Office of National Drug Control Policy	0.0	0.0	0.0	0.0	0.0	0.0
Special Forfeiture Fund (ONDCP)	0.0	0.0	0.0	0.0	0.0	0.0
Small Business Administration	0.0	0.0	0.0	0.0	0.0	0.0
International Narcotics Control Program	0.0	0.0	0.0	0.0	0.0	0.0
Federal Aviation Administration	0.4	0.2	0.4	0.5	0.4	0.5
Nat'l Highway Traffic Safety Admin.	0.0	0.0	0.0	0.0	0.0	0.0
Department of Veteran Affairs	0.0	0.0	0.0	0.0	0.0	0.0
Community Investment Program	0.0	0.0	0.0	0.0	0.0	0.0
White House Conference	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total, Drug Abuse Prevention</b>	<b>86.4</b>	<b>101.9</b>	<b>124.9</b>	<b>128.1</b>	<b>146.0</b>	<b>145.0</b>
<b>DRUG ABUSE TREATMENT</b>						
Department of Defense	12.4	21.4	23.3	24.1	18.5	19.6
Department of Education	6.8	7.3	9.1	11.3	12.7	15.9
Administration for Children and Families	0.0	0.0	0.0	0.0	0.0	0.0
ADAMHA	156.1	120.0	130.1	128.5	136.5	130.7
SAMHSA	0.0	0.0	0.0	0.0	0.0	0.0
Health Care Financing Administration	70.0	70.0	80.0	90.0	100.0	110.0
Health Resources Service Administration	0.0	0.0	0.0	0.0	0.0	0.0
Human Development Services	0.0	0.0	0.0	0.0	0.0	0.0
Indian Health Service	1.5	1.6	2.1	2.3	2.4	2.4
Social Security Administration	0.0	0.0	0.0	0.0	0.0	0.0
Dep't of Housing & Urban Development	0.0	0.0	0.0	0.0	0.0	0.0
Judiciary	4.2	4.9	5.3	6.6	8.3	10.8
Bureau of Prisons	2.9	2.9	2.8	2.7	3.1	3.3
Office of Justice Programs	0.0	0.0	0.0	0.0	0.0	1.2
Office of National Drug Control Policy	0.0	0.0	0.0	0.0	0.0	0.0
Special Forfeiture Fund (ONDCP)	0.0	0.0	0.0	0.0	0.0	0.0
Department of Veterans Affairs	259.9	277.5	296.4	316.7	343.9	341.8
<b>Total, Drug Abuse Treatment</b>	<b>513.8</b>	<b>505.6</b>	<b>549.1</b>	<b>582.2</b>	<b>625.3</b>	<b>635.7</b>
<b>TOTAL DRUG CONTROL BUDGET</b>	<b>1,531.8</b>	<b>1,718.9</b>	<b>1,997.1</b>	<b>2,363.2</b>	<b>2,750.9</b>	<b>2,881.0</b>

1987	1988	1989	1990	1991	1992	1993	1994	1995 Request
0.0	0.0	1.2	4.0	5.6	5.7	5.4	2.0	0.9
0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	0.0
0.0	0.0	0.0	0.0	0.1	0.1	0.2	0.2	0.2
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	4.0
0.9	5.5	4.3	9.1	7.3	7.3	7.8	6.0	6.6
0.0	0.0	0.0	0.0	0.0	0.0	23.0	32.8	27.0
0.0	0.0	0.0	0.9	0.0	0.5	0.3	0.8	0.8
0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2.0	2.5	0.0	0.0	0.0	0.0	0.0	0.0	0.0
444.3	464.7	725.4	1,238.0	1,479.2	1,538.7	1,556.5	1,602.4	2,050.7
20.9	22.1	12.4	16.6	15.0	17.4	11.0	9.4	9.9
20.0	24.9	22.6	61.2	74.1	88.6	99.4	108.6	118.5
0.0	0.0	0.0	0.0	31.7	31.7	31.9	32.4	32.4
263.3	281.0	463.9	727.9	774.9	829.2	0.0	0.0	0.0
0.0	0.0	0.0	0.0	0.0	0.0	880.1	925.4	1,166.0
120.0	130.0	140.0	170.0	190.5	201.8	231.9	261.8	292.2
0.0	0.0	0.0	0.0	13.2	16.5	20.9	33.4	38.7
0.0	0.0	0.0	4.9	0.0	0.0	0.0	0.0	0.0
21.7	16.2	18.7	30.1	32.4	32.2	41.7	39.0	47.7
0.0	0.0	1.9	2.5	3.1	4.9	4.6	20.0	22.8
0.0	0.0	0.0	0.0	0.0	0.0	0.0	25.0	25.0
15.9	21.2	23.3	31.9	34.6	36.5	40.7	46.8	53.7
3.8	4.3	4.1	8.0	10.7	21.5	21.1	21.6	22.2
19.6	8.1	34.4	88.9	83.1	80.0	51.3	50.4	15.9
0.0	0.0	1.2	4.0	5.6	5.7	5.4	2.0	5.9
0.0	0.0	0.0	0.0	0.0	0.0	0.0	1.0	45.0
341.8	360.7	425.8	492.9	608.4	838.6	899.1	937.3	978.5
827.1	868.5	1,148.2	1,638.9	1,877.3	2,204.7	2,339.1	2,514.1	2,874.4
4,792.2	4,707.8	6,663.7	9,758.9	10,957.6	11,910.1	12,265.3	12,136.2	13,179.8

## C. National Drug Control Program

### EXECUTIVE ORDER 12880 (NOVEMBER 16, 1993)

The Office of National Drug Control Policy has the lead responsibility within the Executive Office of the President to establish policies, priorities, and objectives for the Nation's drug control program, with the goal of reducing the production, availability, and use of illegal drugs. All lawful and reasonable means must be used to ensure that the United States has a comprehensive and effective National Drug Control Strategy.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Narcotics Leadership Act of 1988, as amended (21 U.S.C. 1501 *et seq.*), and in order to provide for the effective management of the drug abuse policies of the United States, it is hereby ordered as follows:

Section 1. GENERAL PROVISIONS. (a) Because the United States considers the operations of international criminal narcotics syndicates as a national security threat requiring an extraordinary and coordinated response by civilian and military agencies involved in national security, the Director of the Office of National Drug Control Policy (Director), in his role as the principal adviser to the National Security Council on national drug control policy (50 U.S.C. 402(f)), shall provide drug policy guidance and direction in the development of related national security programs.

(b) The Director shall provide oversight and direction for all international counternarcotics policy development and implementation, in coordination with other concerned Cabinet members, as appropriate.

(c) An Interagency Working Group (IWG) on international counternarcotics policy, chaired by the Department of State, shall develop and ensure coordinated implementation of an international counternarcotics policy. The IWG shall report its activities and differences of views among agencies to the Director for review, mediation, and resolution with concerned Cabinet members, and if necessary, by the President.

(d) A coordinator for drug interdiction shall be designated by the Director to ensure that assets dedicated by Federal drug program agencies for interdiction are sufficient and that their use is properly integrated and optimized. The coordinator shall ensure that interdiction efforts and priorities are consistent with overall U.S. international counternarcotics policy.

(e) The Director shall examine the number and structure of command/control and drug intelligence centers operated by drug con-

trol program agencies involved in international counter-narcotics and suggest improvements to the current structure for consideration by the President and concerned members of the Cabinet.

(f) The Director, utilizing the services of the Drugs and Crime Data Center and Department of Justice Clearinghouse, shall assist in coordinating and enhancing the dissemination of statistics and studies relating to anti-drug abuse policy.

(g) The Director shall provide advice to agencies regarding ways to achieve efficiencies in spending and improvements to inter-agency cooperation that could enhance the delivery of drug control treatment and prevention services to the public. The Director may request agencies to provide studies, information, and analyses in support of this order.

**Sec. 2. GOALS, DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL DRUG CONTROL PROGRAM.** (a) *Budget Matters.* (1) In addition to the budgetary authorities and responsibilities provided to the Director by statute, 21 U.S.C. 1502, for those agency budget requests that are not certified as adequate to implement the objectives of the National Drug Control Strategy, the Director shall include in such certifications initiatives or funding levels that would make such requests adequate.

(2) The Director shall provide, by July 1 of each year, budget recommendations to the heads of departments and agencies with responsibilities under the National Drug Control Program. The recommendations shall apply to the second following fiscal year and address funding priorities developed in the annual National Drug Control Strategy.

(b) **MEASUREMENT OF NATIONAL DRUG CONTROL STRATEGY OUTCOMES.** (1) National Drug Control Strategy shall include long-range goals for reducing drug use and the consequences of drug use in the United States, including burdens on hospital emergency rooms, drug use among arrestees, the extent of drug-related crime, high school dropout rates, the number of infants exposed annually to illicit drugs in utero, national drug abuse treatment capacity, and the annual national health care costs of drug use.

(2) The National Drug Control Strategy shall also include an assessment of the quality of techniques and instruments to measure current drug use and supply and demand reduction activities, and the adequacy of the coverage of existing national drug use instruments and techniques to measure the total illicit drug user population and groups at-risk for drug use.

(3) The Director shall coordinate an effort among the relevant drug control program agencies to assess the quality, access, management, effectiveness, and standards of accountability of drug abuse treatment, prevention, education, and other demand reduction activities.

(c) *Provision of Reports.* To the extent permitted by law, heads of departments and agencies with responsibilities under the National Drug Control Program shall make available to the Office of National Drug Control Policy, appropriate statistics, studies, and reports, pertaining to Federal drug abuse control.

WILLIAM J. CLINTON

THE WHITE HOUSE,

*November 16, 1993.*

[FR Doc. 93-28578

Filed 11-17-93; 10:49 am]

Billing code 3195-01-P

## D. Establishing the Drug Enforcement Administration

### REORGANIZATION PLAN NO. 2 OF 1973

*Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 28, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.*<sup>1</sup>

#### LAW ENFORCEMENT IN ILLICIT DRUG ACTIVITIES

**SECTION 1. *Transfers to the Attorney General.*** There are hereby transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana, except that the Secretary shall retain, and continue to perform, those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or to the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States: *Provided*, that any illicit narcotics, dangerous drugs, marihuana, or related evidence seized, and any person apprehended or detained by the Secretary or any officer of the Department of the Treasury, pursuant to the authority retained in them by virtue of this section, shall be turned over forthwith to the jurisdiction of the Attorney General: *Provided further*, that nothing in this section shall be construed as limiting in any way any authority vested by law in the Secretary of the Treasury, the Department of the Treasury, or any other officer or any agency of that Department on the effective date of this Plan with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana: and *Provided further*, that nothing in this section shall be construed as limiting in any way any authority the Attorney General, the Department of Justice, or any other officer or any agency of that Department may otherwise have to make investigations or engage in law enforcement activities, including activities relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana, at ports of entry or along the land and water borders of the United States.

**SEC. 2. *Transfers to the Secretary of the Treasury.*** There are hereby transferred to the Secretary of the Treasury all functions vested by law in the Attorney General, the Department of Justice, or any other officer or any agency of that Department, with respect to the inspection at regular inspection locations at ports of entry

<sup>1</sup> Effective July 1, 1973, under the provisions of section 10 of the plan.

of persons, and documents of persons, entering or leaving the United States: *Provided*, that any person apprehended or detained by the Secretary or his designee pursuant to this section shall be turned over forthwith to the jurisdiction of the Attorney General: and, *Provided further*, that nothing in this section shall be construed as limiting, in any way, any other authority that the Attorney General may have with respect to the enforcement, at ports of entry or elsewhere, of laws relating to persons entering or leaving the United States.

SEC. 3. *Abolition.* The Bureau of Narcotics and Dangerous Drugs, including the Office of Director thereof, is hereby abolished, and section 3(a) of Reorganization Plan No. 1 of 1968 is hereby repealed. The Attorney General shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics and Dangerous Drugs not otherwise provided for in this Reorganization Plan.

SEC. 4. *Drug Enforcement Administration.* There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration, hereinafter referred to as "the Administration."

SEC. 5. *Officers of the Administration.* (a) There shall be at the head of the Administration the Administrator of Drug Enforcement, hereinafter referred to as "the Administrator." The Administrator shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). He shall perform such functions as the Attorney General shall from time to time direct.

(b) There shall be in the Administration a Deputy Administrator of the Drug Enforcement Administration, hereinafter referred to as "the Deputy Administrator," who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Attorney General may from time to time direct, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(c) The Deputy Administrator or such other official of the Department of Justice as the Attorney General shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

SEC. 6. *Performance of transferred functions.* (a) The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of Justice.

(b) The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of the Treasury.



**SEC. 7. *Coordination.*** The Attorney General, acting through the Administrator and such other officials of the Department of Justice as he may designate, shall provide for the coordination of all drug law enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among the Administration, the Federal Bureau of Investigation, and other units of the Department involved in the performance of these and related functions.

**SEC. 8. *Incidental transfers.*** (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Attorney General and to the Secretary of the Treasury by this Reorganization Plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Justice and to the Department of the Treasury, respectively, at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such Federal agencies as he shall designate.

**SEC. 9. *Interim Officers.*** (a) The President may authorize any person who, immediately prior to the effective date of this Reorganization Plan, held a position in the Executive Branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

**SEC. 10. *Effective date.*** The provisions of this Reorganization Plan shall take effect as provided by section 906 (a) of title 5 of the United States Code or on July 1, 1973, whichever is later.

**E. 1994 International Narcotics Control Strategy Report:  
Certification Documents**

THE WHITE HOUSE  
WASHINGTON  
April 1, 1994

Presidential Determination 94-22

**MEMORANDUM FOR THE SECRETARY OF STATE**

**SUBJECT: Certification for Major Narcotics Producing and Transit Countries**

By virtue of the authority vested in me by section 490 (b) (1) of the Foreign Assistance Act of 1961, as amended ("the Act") I hereby determine and certify that the following major drug producing and/or major drug transit countries/dependent territories have cooperated fully with the United States, or taken adequate steps on their own, to achieve full compliance with the goals and objectives of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances:

The Bahamas, Belize, Brazil, China, Colombia, Ecuador, Guatemala, Hong Kong, India, Jamaica, Malaysia, Mexico, Pakistan, Paraguay, Thailand, and Venezuela.

By virtue of the authority vested in me by section 490(b)(1) of the Act, I hereby determine that it is in the vital interests of the United States to certify the following countries:

Afghanistan, Bolivia, Laos, Lebanon, Panama, and Peru.

Information on these countries as required under section 490(b)(3) of the Act is attached.

I have determined that the following major producing and/or major transit countries do not meet the standards set forth in section 490(b):

Burma, Iran, Nigeria, and Syria.

In making these determinations, I have considered the factors set forth in section 490 of the Act, based on the information contained in the International Narcotics Control Strategy Report of 1994. Because the performance of these countries varies, I have attached an explanatory statement in each case.

You are hereby authorized and directed to report this determination to the Congress immediately and to publish it in the *Federal Register*.

William J. Clinton

## STATEMENT OF EXPLANATION

## THE BAHAMAS

Bahamian and joint US-Bahamian drug enforcement initiatives over the past ten years have significantly reduced the volume of drugs moving through the country. Nevertheless, in 1993, The Bahamas remained a major transit country for US-bound Colombian cocaine. The Ingraham government, which came into office in August 1992, voiced its early commitment to maintain and enhance cooperation with the USG in counternarcotics. The USG seeks full cooperation with the Government of the Commonwealth of The Bahamas (GCOB) on the complete range of counternarcotics efforts.

The Bahamas is a party to the 1988 UN Convention and has instituted laws and procedures consistent with the Convention's goals and objectives, with the exception of adequate money laundering controls. As a financial services center protected by bank secrecy, The Bahamas is vulnerable to money laundering. The USG agrees that cash money laundering in The Bahamas is reduced from previous higher levels. The GCOB has adopted some money laundering controls. While respecting Bahamian concern about remaining competitive as a financial services center, the USG believes, however, that newer, sophisticated money laundering techniques will require additional controls, including mandatory reporting of suspicious transactions. The GCOB cooperated with the Financial Action Task Force, which sponsored a money laundering seminar in Nassau in October 1993 for central bank representatives and bank regulators from member countries of the Caribbean Financial Action Task Force steering committee and Bahamian bankers.

The GCOB works to accomplish the goals and objectives of the US-Bahamas bilateral narcotics control agreement. The GCOB cooperates fully with the USG in the extensive Operation Bahamas and Turks and Caicos (OPBAT) interdiction program. In the future, the USG will encourage The Bahamas to assume more responsibility for interdiction activities. GCOB cooperation with the USG via a number of agreements and arrangements to facilitate maritime counternarcotics operations has also been excellent. The USG will be looking to The Bahamas for better coordination on extradition matters.

Although as a matter of policy the GCOB does not support or facilitate narcotics-related corruption, in 1994, the USG will be reviewing the GCOB's willingness to deal forcefully with narcotics-related corruption, particularly to the extent it may occur at senior levels. In the past, the GCOB has taken measures to punish public narcotics-related corruption, though there were no such cases in 1993.

## STATEMENT OF EXPLANATION

## BELIZE

The Belizean government has cooperated closely with the United States and other countries to combat narcotics trafficking. In February 1993, Belize hosted a Central American Drug Summit which produced strong commitments from leaders in the region to take action against trafficking and to work more cooperatively together.

Belize was previously a significant producer of marijuana, but, with US support, has reduced cultivation to negligible levels. The State Department Bureau of International Narcotics Matters was forced to withdraw its aircraft from Belize in 1993 for budgetary reasons, but the USG still provides assistance in the form of training, intelligence sharing and provision of materiel for the police and defense forces.

Belize has not yet acceded to the 1988 UN Convention, claiming that its foreign ministry has not fully studied the matter. However, many of the provisions of the Convention have already been adopted in Belize's 1990 Misuse of Drugs Act. Belizean enforcement of that statute has demonstrated overall compliance with the goals and objectives of the Convention. Extradition with the United States is governed by the 1972 US/UK treaty which remained in effect after Belizean independence. The USG and the GOB are parties to a bilateral maritime memorandum of agreement (shiprider agreement) and a drug-control letter of agreement. Belize has fulfilled its obligations under both. The GOB has also prosecuted cases of corruption, although none of these was drug-related in 1993. The USG is not aware of any cases of involvement of senior GOB officials in narcotics trafficking or money laundering activities.

#### STATEMENT OF EXPLANATION

##### BRAZIL

Brazil is a significant transit country for cocaine en route from Bolivia, Peru and Colombia to the United States and Europe. It both manufactures and imports large amounts of the chemicals used in cocaine production, and these chemicals are being diverted illegally to the Andean countries. Traffickers appear to be making more use of Brazilian transit routes and are establishing cocaine refineries there.

President Franco declared that 1993 would be the "year to fight narcotics." With substantial USG help, the Federal Police had a highly successful year in interdicting cocaine shipments. They seized 7.7 mt, up from just 2.8 mt in 1992, and contributed information which enabled Spanish authorities to seize another 2 mt. Their success is an indication of both their increased ability to carry out investigations and the rise in the quantity of cocaine transiting Brazil. The GOB also extradited three Americans charged with counternarcotics offenses.

In 1993, the GOB created a new anti-drug secretariat within the Ministry of Justice, an important step toward developing a comprehensive national strategy. However, the scope of its policy-making authority is still unclear.

The GOB makes ample use of its asset seizure laws. The Federal Drug Council (CONFEN) is responsible for administering the funds generated by asset seizure. In some instances, judges assign seized goods, such as vehicles, directly to the police.

In 1993, Brazil's National Defense Council approved construction of a radar system that would be able to detect trafficker aircraft in the western Amazon region of the country.

The GOB has not yet acted to increase the operating budget of the Federal Police counterdrug unit. The agency remains severely undermanned and underfunded, though the government held the first entrance exam for police agents in eight years in November. Legislation which would substantially improve counternarcotics enforcement continues to languish in congressional committee, where it has been since its introduction in 1991.

As a matter of policy and practice, the GOB does not condone illicit production or distribution of drugs, or the laundering of drug money. We know of no senior GOB officials engaged in or encouraging such activity. Low-level officials have been effectively prosecuted for drug-related corruption. The GOB is meeting the objectives of its bilateral agreement with the USG, which calls for the GOB to improve the effectiveness of its Federal Police. The GOB is making adequate progress toward full compliance with the UN Convention in the areas of extradition, asset forfeiture and overall law enforcement. The government still needs to improve their effectiveness by passing pending legislation that would update its narcotics laws and facilitate police investigations and prosecutions. It also needs to develop and execute a comprehensive national strategy to confront its escalating drug problem and to dedicate the resources necessary to carry out that strategy.

#### STATEMENT OF EXPLANATION

##### CHINA

The leaders of the People's Republic of China (PRC) have taken a tough stance against narcotics trafficking and use. China is a major export route for Golden Triangle heroin and, with drug addiction on the rise, an increasing consumer of narcotics as well, while growing investment increases opportunities for money laundering. China has launched a major anti-corruption campaign which may aid narcotics control efforts. The PRC takes a strong stand against official corruption, and has laws dealing specifically with officials found guilty of involvement with the narcotics trade.

China has met or is seeking to meet the goals and objectives of the 1988 UN Convention, to which it is a party, by enhancing law enforcement measures and increasing public education and international cooperation. It has helped expand regional counternarcotics cooperation via a 1993 Memorandum of Understanding signed with Burma, Laos, Thailand and the UNDCP.

Although China expresses a desire for increased counternarcotics cooperation with the United States, the level of cooperation remains restricted by the still-unresolved case of smuggler Wang Zongxiao, a Chinese drug trafficker who requested political asylum in the United States in 1990 after being sent to the United States by Chinese authorities to testify in a narcotics prosecution. However, DEA has been able to continue liaison and training with PRC authorities.

## STATEMENT OF EXPLANATION

## COLOMBIA

Colombia is the world's leading supplier of cocaine hydrochloride to international markets. Drug traffickers continue to rely on bulk supplies of cocaine base from Peru and Bolivia, but also use limited quantities of base from Colombia's own estimated 37,100 ha of low-yield coca. The Government of Colombia (GOC) cooperates with the United States on a broad range of counternarcotics activities. However, GOC efforts to arrest, prosecute and seize the assets of major drug kingpins have had mixed results. On December 2, 1993, Pablo Escobar was killed in a shootout with police and military forces, culminating a costly 18-month manhunt following his escape from a Medellin prison known for its lax security. The Cali cartel has now become the predominant trafficking organization following a series of successful steps against the Medellin cartel.

The GOC works closely with the USG to accomplish the goals and objectives of our bilateral assistance agreement, including eradication of drug crops, interdiction of illegal drugs and chemicals diverted for the production of illegal drugs, and the building up of the Colombian drug enforcement infrastructure. The GOC initiated action against the "corporate" infrastructure of the Cali cartel in late 1991, undertaking several takedown operations designed to seize records, assets and financial data. Colombian security forces conduct operations to disrupt air trafficking and deny sectors of the country to traffickers. However, by the end of 1993, no major Cali traffickers were in custody.

The GOC is pursuing means to strengthen its judicial framework to arrest and prosecute drug traffickers. The office of the Prosecutor General was established and personnel were being trained in newly developed legal procedures. However, some developments, including the revision of the criminal procedures code, could portend a less ambitious campaign against the Cali traffickers. These developments are being monitored carefully. In mid-1993, the Colombian Congress voted to approve the 1988 UN Convention; ratification, however, is contingent upon a favorable review (pending) by the constitutional court followed by deposit with the UN of the instrument of ratification. As Colombian actions against drug cartel infrastructure and eradication efforts indicate, the GOC is generally meeting the goals and objectives of the Convention. The Attorney General created the office of a special prosecutor to pursue reported cases of corruption, and investigations have begun on several cases. The government does not promote or condone corruption, but there are few examples of sentences which include incarceration.

The GOC record on interdiction and eradication is mixed. Cocaine hydrochloride seizures decreased 30 percent (21.8 Mt) in 1993, but cocaine base seizures increased 50 percent (9.7 Mt) and marijuana seizures increased 60 percent (549 Mt). GOC eradication efforts are brighter. Ten thousand hectares of opium poppy were eradicated in 1993, and over 22,000 hectares have been eradicated since February 1992.

## STATEMENT OF EXPLANATION

## ECUADOR

In 1993, the Government of Ecuador (GOE) strengthened its counternarcotics relationship with the USG. The GOE enacted domestic legislation, including an anti-money laundering agreement, to implement the provisions of the 1988 UN Convention and OAS model regulations, thus bringing it closer to meeting fully the goals and objectives of the UN Convention. It began to use this agreement to assist the police in conducting more effective money laundering investigations. The GOE and USG made progress on negotiating an asset sharing agreement (the GOE submitted a first draft), and it accomplished the major goals of our bilateral assistance agreement, including beginning the prosecution of major figures from the Reyes Torres Organization and building institutional law enforcement capabilities. However, the GOE will further succeed when the government takes additional steps to implement fully its national counternarcotics strategy.

The GOE appointed a prosecutor for the case of incarcerated alleged drug kingpin Jorge Hugo Reyes Torres (tied to the Cali cartel) who led the largest narcotics trafficking organization in Ecuador, the Jorge Reyes Torres Organization (JRTO). The GOE has expanded this investigation to include other suspected money laundering organizations.

As a matter of government policy, the GOE does not encourage or facilitate the illicit production or distribution of drugs or the laundering of money. The GOE has taken steps to counter corruption, including foiling two attempts by Reyes Torres to escape from prison and arresting a judge for accepting bribes. Nonetheless, corruption remains a serious problem as demonstrated by the languishing JRTO prosecution.

In December 1993, the police and military conducted a law enforcement riverine operation with limited Colombian support along the Putumayo River on the Ecuadoran/Colombian border. Colombian guerrillas and traffickers attacked and killed eleven police and soldiers, suggesting that the GOE operation disrupted the movement of narcotics along the river and other narcotics-related activities in that region. Ecuador requires greater cooperation with Colombia and development of its own forces in remote areas to conduct more successful riverine operations along the border.

Ecuador dismantled several transportation and money laundering groups tied to the Cali cartel and participated with its neighbors and the USG in multi-national military efforts to curb drug trafficking. Ecuador has continued its participation in a regional air interdiction program and in joint counter-drug simulation exercises with the USG and Colombia. The GOE Air Force provided airlift support for counternarcotics activities.

Ecuador eradicated coca in the mid-1980s and found and destroyed in 1992 several hectares of opium poppy near the Colombian border (and one hectare in 1993). Ecuador seized several kilos of seeds for the cultivation of opium poppy.

## STATEMENT OF EXPLANATION

## GUATEMALA

During 1993, the Government of Guatemala (GOG) gave strong policy support to drug control and cooperated effectively with the United States and other countries. Guatemalan law enforcement agencies have worked closely with the DEA and the State Department Bureau of International Narcotics Matters in Operation CADENCE, an enhanced cocaine interdiction program combining the assets and intelligence of various USG agencies. The Guatemalan Treasury Police, with US support, also eradicated two-thirds of the country's planted opium poppy hectareage.

The administration of President De Leon (which took office after a constitutional crisis in June) signed a far-reaching bilateral drug-control agreement, committing the Guatemalan government to continued budgetary, policy and manpower support for joint counternarcotics activities. The GOG has strived to meet the goals of that agreement, although it has not always received budgetary support from the Guatemalan Congress. De Leon and his predecessor authorized night operations for CADENCE, which, along with a flexible basing strategy initiated in May, resulted in a greater success rate against air smuggling into Guatemala.

The De Leon Administration has taken a strong stance against public corruption and has prosecuted officials of the prior government. Corruption in the court system remains a serious problem.

DEA worked closely with the Guatemalan Treasury Police in conducting cocaine investigations.—including two important operations against major Colombian drug trafficking organizations.

The US Government has had mixed results in its attempts to extradite accused drug traffickers from Guatemala. There was only one successful extradition in 1993.

Guatemala is a party to the 1988 UN Convention; its performance in law enforcement, drug awareness and crop' eradication was consistent with the Convention's goals and objectives. Shortcomings in the judicial area are the subject of a reform effort which will require close watching in 1994. Guatemala also needs to take action to institute controls on potential money laundering and diversion of precursor and essential chemicals.

## STATEMENT OF EXPLANATION

## HONG KONG

Despite laudable enforcement efforts by local authorities, Hong Kong remains a significant center for the transshipment of heroin from Southeast Asia to the United States and elsewhere. Traffickers use the territory to arrange deals and launder the proceeds from these and other illicit transactions. Although Hong Kong is not a party to the 1988 UN Convention, the territory's counternarcotics efforts effectively comply with most of the goals and objectives of the Convention. The Hong Kong Government (HKG) is now drafting a revised drug trafficking ordinance to conform more fully with the recommendations of the Financial Action Task Force, in which it is an active participant.



Hong Kong and the United States have a bilateral narcotics agreement which facilitates asset freezing and forfeiture. Hong Kong has a comprehensive anti-corruption statute which is actively enforced. Bilateral cooperation between USG law enforcement agencies and their HKG counterparts is excellent. Asset seizures in response to US civil or criminal forfeiture requests continue to increase. The Hong Kong Government is consistently responsive to US extradition applications.

## STATEMENT OF EXPLANATION

### INDIA

India is a transit route for heroin and other illegal opium derivatives from nearby producing countries. Other important drug control problems are diversion of legally produced opium for pharmaceuticals to illicit channels, illegal cultivation and illicit export of essential and precursor chemicals.

The Government of India (GOI) cooperates well with the United States on individual cases of trafficking and, in 1993, significantly increased its efforts to curtail diversion from licit cultivation. Inter alia, it again raised the minimum yield farmers must tender to the government to retain opium poppy growing licenses, reduced the number of growers, began to provide financial incentives to farmers who exceed the minimum yield, computerized record-keeping, began payment to farmers by check rather than cash to discourage corruption, and upgraded vats for opium gum storage to thwart theft. Further, the area under licit poppy cultivation has been reduced by about 80 percent, from 66,000 ha in 1978 to just over 13,000 ha in 1993. Despite these steps, some farmers do not sell their entire crop to the GOI as required by law and illegally sell from a few grams to several kilograms of opium to traffickers for as much as several hundred times the GOI purchase price. While there are no reliable figures on the extent of this diversion and unsubstantiated estimates vary widely, the total may be as much as 30 percent. In addition, there is some illicit cultivation in the hills of the northeast and east. There are continuing reports of corruption among GOI officials, but the USG is unaware of any senior government official who encourages or facilitates trafficking or money laundering.

In 1993, the Ministry of Finance Revenue Secretary assumed the role of senior narcotics coordinator, thus raising counternarcotics to the highest levels of government. Though seizure and arrest statistics remained about the same over 1992, more than six times as much illicit opium poppy cultivations were eradicated. India held its first bilateral narcotics talks with Burma, resumed the narcotics dialogue with Pakistan after a hiatus of several years, signed a narcotics agreement with Zambia and became a party to the South Asian Association for Regional Cooperation Narcotics Convention. Another important development was the government's extension of regulations controlling the sale and possession of acetic anhydride, the precursor chemical needed to make heroin, to the entire country; previously these controls were exercised only along the Pakistan/India border.

India's considerable narcotics control efforts in 1993 lead the USG to believe that the GOI is making progress in meeting the goals and objectives of the 1988 UN Convention as well as the objectives contained in the 1993 bilateral narcotics control agreement under which India received modest USG drug control assistance. Though additional steps must be taken to further control diversion from licit production, the GOI has also made a strong effort to implement the majority of recommendations contained in—the DEA-State Department 1993 report on licit production, has reduced licit opium acreage and maintained appropriately low levels of stockpiles, and seeks to eliminate illegal production.

#### STATEMENT OF EXPLANATION

##### JAMAICA

Jamaica is used for transshipment of cocaine from South America to the United States. It is also a major producer and exporter of marijuana.

Full Jamaican cooperation with DEA and other law enforcement agencies resulted in increased cocaine and marijuana seizures during 1993 and the arrest of 73 suspected drug traffickers, 61 percent of—whom were Class I or II violators by DEA criteria. The Government of Jamaica (GOJ) appointed a new police commissioner who has moved visibly and forcefully to rid the police force of a number of corrupt officers. An Assistant Superintendent of Police, previously acquitted of a charge of accepting bribes and providing protection to a marijuana-trafficking ring, in 1993 was demoted and placed on leave. The GOJ requested and received USG assistance in providing integrity training to Jamaican customs officers. No senior GOJ official has been officially charged with engaging in the production or distribution of drugs or money laundering.

A modern extradition treaty between the United States and Jamaica entered into force in July 1991. The GOJ has become more responsive to USG extradition requests, including those related to narcotics offenses. Jamaica is now one of the USG's most active extradition partners in the region.

In 1993, the GOJ generally accomplished the goals in the US-Jamaica bilateral counternarcotics agreement—those goals being eradication, interdiction and demand reduction -although eradication of marijuana fell short of the projected level. The GOJ blamed the shortfall on increased difficulty in eradicating due to the remote locations of widely dispersed, small plots. The GOJ needs to intensify its eradication efforts.

As demonstrated by the actions discussed above, in many areas Jamaica has taken actions consistent with the goals and objectives of the 1988 UN Convention. The GOJ has not yet ratified either the 1988 Convention or the US-Jamaica mutual legal assistance treaty (MLAT), signed in 1989, but it took some steps during 1993 in that direction. Asset seizure and forfeiture legislation is before Parliament but was not passed in 1993, contrary to GOJ expectations. The GOJ expects it will be passed in early 1994. Money laundering legislation has been drafted and is under review by a select ministry committee. The GOJ needs to push forward more firmly on this legislation in 1994 so that it can ratify and effectively im-

plement the UN Convention. Strong GOJ action is also needed on the legislation required for Jamaica to ratify the US/Jamaican MLAT, ratified by the United States in 1992, on which GOJ progress has also been slow.

#### STATEMENT OF EXPLANATION

##### MALAYSIA

Malaysia is an important consumer and transit point for Golden Triangle heroin, some of which is also processed in the country from imported opium or derivatives. Traffickers smuggle heroin base into Malaysia from Burma and Thailand and convert it to heroin no. 3 for local consumption; heroin no. 4 from Burma and Thailand transits Malaysia en route to markets in the United States, Australia and Europe.

While low-level corruption facilitates persistent drug trafficking and abuse, Malaysia pursues aggressive law enforcement efforts under one of the most severe drug laws in the world. The Government of Malaysia (GOM) recognizes the seriousness of the narcotics threat domestically and internationally, and conducts a serious, well-funded and well-administered anti-narcotics program, which includes law enforcement, primary prevention, treatment and education.

Malaysia ratified the 1988 UN Convention in May 1993, and the Convention entered into force for Malaysia in September 1993. Although it has not yet completely met all the objectives of the Convention, Malaysia has been drafting appropriate implementing legislation, in most cases to augment existing laws.

Malaysia and the United States have an established history of anti-narcotics cooperation. During 1993, the USG and GOM cooperated in conducting demand reduction and drug law enforcement training programs. Having arrested a major international drug trafficker at the USG's request in 1992, the GOM assisted efforts to have him expelled to a neighboring country and ultimately into US custody after an extradition case failed and was dismissed in January 1993.

#### STATEMENT OF EXPLANATION

##### MEXICO

The United States Government and the Government of Mexico (GOM) maintained close, effective counternarcotics cooperation in 1993, despite lingering tensions over the *Alvarez Machain* case and the issue of transborder abductions.

Mexico continued its vigorous and comprehensive campaign against production, trafficking and abuse of illegal drugs, consistent with the goals and objectives of the 1988 UN Convention. During 1993, President Salinas moved against official corruption by appointing Jorge Carpizo McGregor, respected Chairman of the National Human Rights Commission, as Attorney General. Carpizo's investigations led to the firing of eight commanders for "loss of confidence," and corruption charges against three judges in Hermosillo and a former Supreme Court Justice. (Carpizo moved to another ministerial post in January 1994.) Nevertheless, official corruption

remains a persistent problem, particularly at middle and lower levels of the Mexican government.

In August, Salinas established the National Drug Control Institute to coordinate all GOM anti-drug efforts and activities, encompassing eradication, interdiction and the Center for Drug Control Planning. In December, Salinas announced a renewed commitment to drug control, calling for greater domestic and international action, and full respect for law and civil liberties.

New Mexican legislation has increased civil penalties for money laundering; money launderers convicted under Mexico's fiscal/tax code can receive a penalty of three to nine years, imprisonment. The GOM seized 46 mt of cocaine, 50 kg of heroin, and 495 mt of marijuana in 1993, and the USG estimates that Mexico effectively eradicated approximately 7,000 ha of opium poppy and 12,200 ha of marijuana.

Mexico and the United States are working together to better coordinate regional and hemispheric responses to the drug threat. On January 1, 1993, Mexico assumed fully the costs of counternarcotics programs previously supported by US international narcotics control funds. Future USG support will concentrate on specialized training and technical support, much of it paid for by the GOM. During 1993, Mexico abided fully by the terms of bilateral counter-drug cooperation agreements.

Despite these successes, illicit drug crop cultivation has spread to new and more remote areas. South American cocaine traffickers have taken evasive measures to avoid detection, and the flow of illegal drugs from Mexico to the United States remains undiminished. Mexico's revitalized economy, unregulated money exchange houses, and lack of reporting requirements for large money movements make it an attractive venue for money laundering. Also, its extensive industrial base and large domestic chemical industry make control of precursor chemicals very difficult.

#### STATEMENT OF EXPLANATION

##### PAKISTAN

Pakistan is both a producer and an important transit country for opiates destined for international drug markets. Laboratories in Pakistan's Northwest Frontier Province process opium grown there and in neighboring Afghanistan. The USG estimates that about one-fifth of the heroin consumed in the United States originates in Southwest Asia, much of it produced in illegal labs in Pakistan. According to DEA, money laundering occurs in Pakistan but few details are known since there are few effective controls on monetary transactions.

The draft Five Year Plan for 1993-1998, including its chapter on narcotics, made no progress toward passage. Comprehensive legislation to bring Pakistan into conformity with the 1988 UN Convention also did not move forward. The Government of Pakistan (GOP) initiated prosecution of only one major trafficker in 1993 and little progress was made on several other major or ongoing cases.

The GOP caretaker government, which held office from July to mid-October, undertook significant anti-narcotics initiatives including the lowering by temporary ordinance of the minimum sentence

which triggers asset forfeiture and the appointment of a senior Army officer to head the Anti-Narcotics Task Force. The caretaker government also prevented the election of reputed narcotics traffickers to federal legislative seats and revived the anti-narcotics dialogue with India. Opium and heroin seizures by law enforcement agencies went up nearly 50 percent in 1993 as compared to 1992, and the estimated harvestable opium poppy acreage and potential opium production declined by 25 and 20 percent, respectively.

Pakistan extradited six of 21 drug-related fugitives requested by the United States. Seven others were in custody pending completion of the appeals process. Finally, the GOP reported it had eliminated 13 heroin processing labs, though this measure did not visibly affect heroin production. Steps taken by the GOP interim government in 1993 contributed to fulfillment of the goals and objectives of the bilateral narcotics agreement and the 1988 UN Convention. There are continuing reports of drug-related corruption at various levels of the GOP, but no senior GOP official has ever been indicted for narcotics-related corruption.

The current government headed by Prime Minister Benazir Bhutto, elected in October 1993, has affirmed its commitment to counternarcotics and has declared its intention of making changes in legislation that would affect drug asset seizure and the status of the tribal areas. The USG encourages the new government to take these steps quickly, as well as other key initiatives such as the prosecution of major traffickers, destruction of heroin labs and regional counternarcotics cooperation, to significantly reduce the country's drug problem.

#### STATEMENT OF EXPLANATION

##### PARAGUAY

Paraguay is a transit route for Andean cocaine shipped to Brazil, Argentina and Europe and possibly onward to the United States. Marijuana is produced in significant quantities in the northeastern region of the country, but there is no evidence that it reaches the United States. The country's diverse and growing financial sector provides potential for money laundering.

President Juan Carlos Wasmosy, who took office on August 15, 1993, as Paraguay's first democratically-elected civilian President, committed his government to combatting narcotics trafficking. He set the curbing of corruption and drug trafficking as his administration's top priority. The President took several initial steps to fulfill that commitment, including cooperation on regional counternarcotics enforcement operations. In his first five months in office, President Wasmosy authorized the staging of surveillance aircraft, signed a financial information exchange agreement, and submitted to congress the country's first domestic money laundering legislation.

During the past year, SENAD (the anti-drug secretariat) moved to improve the Paraguayan government's narcotics enforcement posture. SENAD worked closely with the USG to revamp the organization and better the efficiency of SENAD and its enforcement arm, DINAR. SENAD also established a financial investigations

unit and created a joint DINAR/Customs task force for the new container port at Villeta. SENAD ended unauthorized and unconventional "controlled deliveries" to Europe and also opened investigations into three cases involving possible high-level protection of narcotics trafficking.

The Government of Paraguay is making progress toward the goals and objectives of the 1988 UN Convention, but needs to strengthen its overall law enforcement performance and to pass money laundering and chemical control legislation in order to improve their effectiveness. The USG remains concerned about suggestions of official corruption in Paraguay and will further pursue this issue during 1994.

#### STATEMENT OF EXPLANATION

##### THAILAND

Thailand is still the primary conduit for heroin from the Golden Triangle sold in the United States, but is no longer a primary producer of opiates for the international market. In 1993, Thailand increased its resources devoted to narcotics interdiction, public education, and drug treatment. It sought regional cooperation with Laos and Burma, worked well with Malaysia, and cooperated actively with US law enforcement agencies. Some police counternarcotics functions have improved through a recent reorganization. The United States and Thailand have an extradition treaty, although extradition of Thai nationals is discretionary. The United States and Thailand exchanged instruments of ratification of a mutual legal assistance treaty in 1993.

Nonetheless, progress in major cases still depended largely on USG initiation and direction, and use of legal remedies was slow. For example, after many years of USG pressure, Thailand passed narcotics conspiracy and forfeiture laws in 1991; cases under the assets seizure law are in progress, but none has concluded. Widespread police and military corruption, expanding narcotics trade with Burma, and the involvement of influential Thai and Sino-Thai private citizens and government officials undermine the effectiveness of law enforcement counternarcotics units.

Money laundering increased as Thailand became a more significant financial center, but the government has not enacted money laundering legislation. Obstacles included the narcotics involvement of some politicians and the banking industry's concern. Elements of the Thai military and police maintain contacts with the Shan United Army (SUA) (or Mong Tai Army), which operates in Burma near the Thai border. They also tolerate arms and precursor chemical sales to the SUA and some other trafficking groups, as well as the licit trade which sustains their illicit activities. Thailand is not a party to the 1988 UN Convention.

#### STATEMENT OF EXPLANATION

##### VENEZUELA

Venezuela is a major transit country for narcotics destined for the United States and Europe and chemicals diverted to Colombia for use in cocaine processing. It is also a haven for money launder-

ing. Corruption, aggravated by narcotics traffickers and money launderers, poses a threat to Venezuela's fragile democratic institutions. Traffickers and insurgent groups from Colombia have penetrated Venezuela's porous borders. Although it is not a source country for narcotics, some cultivation of marijuana and coca occurs near its western border with Colombia. Venezuela must vigorously confront the trafficker threat with more thorough banking and legal reform, more comprehensive policy tools, tougher interdiction actions, and tighter border controls.

Pervasive corruption and money laundering seriously hinder effective law enforcement activities against narcotics trafficking. The Government of Venezuela (GOV) took measures to stem corruption by replacing officials who were considered corrupt in its police and military organizations. The GOV enacted a law criminalizing money laundering in 1993 which made possible the arrest and indictment of several money launderers, including an alleged money laundering kingpin who is tied to the Cali cartel. The GOV also partially dismantled a money laundering organization headed by another major money launderer. Venezuelan judges and prosecutors have participated in anti-corruption seminars.

The USG has renewed a collaborative relationship with the National Guard following major personnel changes in the organization's leadership. However, drug seizures declined overall in 1993 compared to the previous year. The GOV cooperated with the USG in fulfilling the obligations of the bilateral assistance agreements, including enhancing the size and anti-drug mandate of the judicial police, cooperating with USG authorities to arrest money launderers and seize assets and initiating two projects with the Venezuelan Coast Guard (coastal interdiction) and the Marines (chemical diversion control). To increase seizures and drug prosecutions, Venezuela's new President, Rafael Caldera, should create a national strategy and a unified operations command.

Venezuela is a party to the 1988 UN Convention and has signed annual narcotics control agreements with the USG since 1987. It has implemented in law and practice the major goals of the 1988 UN Convention, including implementing money laundering legislation and controls, facilitating mutual legal assistance with the USG involving the arrest and Prosecution of drug traffickers and strengthening its law enforcement efforts. The GOV implemented a maritime cooperation agreement with the USG and is developing a chemical control policy consistent with the guidelines of the UN Convention and a bilateral agreement. However, certain chemicals are still uncontrolled.

## NATIONAL INTEREST JUSTIFICATION

### AFGHANISTAN

Afghanistan is the world's second largest producer of opium after Burma. According to USG estimates, cultivated opium poppy acreage in Afghanistan in 1993 increased by 8.3 percent, to 21,000 ha with a potential yield of 684 mt of opium. If all of this opium were refined, it would yield about 68 mt of heroin.

About 20 percent of the heroin consumed in the United States now appears to come from Southwest Asia, particularly Afghani-

stan and Pakistan. Most of the heroin exported from the region goes to Europe.

Since the end of the Soviet occupation in 1989, the Government of Afghanistan (GOA) has publicly stated its opposition to drug trafficking and abuse. However, persistent failure to achieve an overall political settlement continues to deny the GOA control over much of the country and has prevented it from taking effective concrete measures against the illegal narcotics trade. For the same reason, Afghanistan has made no significant progress in implementing the provisions of the 1988 UN Convention, which it ratified in February 1992. We have no information on counter Corruption efforts.

The USG has official contacts with the government in Kabul in accord with efforts to promote a political settlement and a stable government. In the absence of a bilateral counternarcotics agreement, the USG funds modest pilot drug control projects through UNDCP which seek to lay the groundwork for drug control in Afghanistan where regional commanders are committed to this endeavor. However, lack of counternarcotics progress means that the USG cannot grant full certification for Afghanistan. Because of the history of US involvement with Afghanistan, we have a vital national interest in promoting political reconciliation and governmental stability, progress toward which would be undermined or made impossible by the restrictions required by denial of certification. As political stability is critical to narcotics control, the vital national interests of the United States that would be placed at risk by denial of certification exceed even the risks posed to the USG's vital national interest by Afghanistan's failure to take adequate steps to control narcotics.

## NATIONAL INTEREST JUSTIFICATION

### BOLIVIA

Bolivia is the world's second largest producer of coca leaf behind Peru and the second largest producer of finished cocaine behind Colombia. Most Bolivian cocaine is destined ultimately for the United States. Bolivia continues to make progress in areas of narcotics control, notably law enforcement, investigations and interdiction. In 1993, Government of Bolivia (GOB) forces dismantled four trafficking organizations and seized more than 12 mt of cocaine base and cocaine hydrochloride. Bolivian police planned and conducted more investigations and drug raids without DEA participation than in previous years. This is a positive sign of development of the Bolivian police.

In mid-1993, President Gonzalo Sanchez de Lozada took office after a democratic election process and proposed a series of initiatives which included improving the performance of government, combatting official corruption, and ending illicit coca cultivation in Bolivia through economic development. With some genuine successes, such as the initiation of impeachment proceedings against corrupt Supreme Court Justices and re-configuring the Executive Branch, President Sanchez de Lozada has demonstrated his resolve to reach his stated goals.



Coca eradication in 1993 under both the Paz Zamora and Sanchez de Lozada governments was almost exclusively limited to efforts to encourage farmers not to grow coca by providing economic incentives to shift to other crops. The GOB failed to meet eradication goals established in bilateral aid agreements with the USG, eradicating less than half the hectareage targeted for destruction in 1993. The GOB failed in 1991 and 1992 to meet eradication goals set for those years as well.

The GOB did not extradite persons for drug trafficking offenses in 1993. The Bolivian Supreme Court, with growing evidence supporting corruption charges against some of its members, failed to process extradition requests under the existing bilateral extradition treaty/1988 Convention framework. The GOB, for its part, has not signed a new extradition treaty with the United States, which was negotiated in 1990.

The GOB's failure to take adequate steps on eradication and extradition constitutes a failure to cooperate fully with the United States, or take adequate steps on its own to achieve full compliance with the 1988 UN Convention. Moreover, such shortcomings constitute a failure to meet the goals of bilateral agreements with the United States.

Since Bolivia is the second-largest cocaine producer, it is a vital national interest of the United States to maintain and increase the level of cooperation of the GOB on counternarcotics issues. Termination of bilateral and multilateral development bank assistance would have an extremely deleterious effect on the Bolivian economy; it inevitably would reduce the resources available to the GOB to combat narcotics trafficking and would foster conditions in which more Bolivians would be prone to engage in illicit coca cultivation and trafficking. As the World Bank and the Inter-American Development Bank are Bolivia's largest aid donors, USG opposition to loans to Bolivia in those fora would result in strident calls on the GOB to cease its counternarcotics cooperation with the USG. Moreover, economic instability could lead to a loss of confidence throughout the country and thereby serve to undermine Bolivia's fledgling democratic institutions. Preserving and promoting democracy in Bolivia is in the US national interest of seeking democracy throughout the Western Hemisphere. Should Bolivia's current democratic government fall, it could well be followed by an authoritarian regime in which narcotics traffickers gain a strong foothold.

While in 1993 the GOB did not meet the standard for full certification, its cooperation nonetheless was extensive. The risks posed to vital US national interests from the possible consequences of terminating US assistance, as noted above, greatly outweigh the risks posed by the lack of total GOB cooperation on counternarcotics.

#### NATIONAL INTEREST JUSTIFICATION

##### LAOS

Laos' estimated opium production declined 22 percent in 1993 from 1992, although this was principally due to adverse weather conditions. While total crop reduction since initiation of USG- and UNDCP-funded rural development/opium replacement programs in 1989 exceeds 50 percent and hectareage has declined 37 percent,

that decline stopped in 1993, suggesting a need for increased Government of Laos (GOL) efforts to discourage production.

Narcotics-related arrests and seizures increased during the past year, with both highland and lowland Lao arrested on charges involving opium, heroin and marijuana. After much delay, the police counternarcotics unit established with US encouragement by the GOL Council of Ministers in August 1992 is only beginning to function. Much of its attention, however, appears to have been devoted to marijuana eradication, an easier and less politically charged matter than opium production and heroin trafficking.

Narcotics corruption among civilian and military personnel is widespread, although we do not believe the Lao government actively encourages or facilitates narcotics activity. Some senior officials are likely aware of illicit activities, but lack the resources, power or will to stop them. Senior Lao officials have repeatedly insisted that anyone involved in the narcotics trade will be arrested and prosecuted.

Laos' counternarcotics efforts take place primarily with foreign assistance or under foreign pressure. The GOL has not been responsive to law enforcement information-sharing requests, nor has it successfully sustained pressure to reduce opium production. The GOL does appear to recognize the need for increased counternarcotics efforts. Its counternarcotics program, however, can only be considered weak, reflecting in part that Laos is a very poor country with limited training and educational opportunities and a poorly developed administrative system. Laos has made limited progress in meeting the commitments of the US-Lao bilateral counternarcotics agreement. It is not a signatory of the 1988 UN Convention, and has made little progress in meeting the goals and objectives of the Convention.

The principal US interest in Laos is achieving the fullest Possible accounting for Americans missing from the Vietnam War. Denial of certification would risk losing Lao Cooperation on this issue. Ensuring some level of POW/MIA cooperation justifies a national interest certification.

Because Laos is a communist country, the United States has no development assistance programs there that would be terminated should Laos not be certified. US experience with the multilateral development banks suggests that the United States would not likely find significant support for decisions against MDB assistance to Laos.

Improved counternarcotics cooperation on law enforcement could be jeopardized by denial of certification, thereby putting at risk progress toward the US vital national interest to reduce the flow of heroin into the United States. The results achieved to date on opium crop reduction could also be placed at risk. Therefore, if one weighs the consequences of losing GOL cooperation on both counternarcotics and POW/MIA accounting, it is clear that national interest certification best serves US vital national interests.

## NATIONAL INTEREST JUSTIFICATION

## LEBANON

Lebanon remains a production center for heroin, hashish, and cocaine despite recent successes in eradicating opium poppy in the Bika'.

The political situation in Lebanon continues to hinder the full cooperation of the Government of Lebanon with the United States on narcotics matters. The Syrian occupation of the Bika' which began in 1976 continued in 1993, limiting the Lebanese ability to take independent counternarcotics actions.

While Lebanon has not become a party to the 1988 UN Convention and has failed to meet many of its goals and objectives, the successful eradication of a major portion of Lebanon's opium poppy crop was a significant development in 1993. The increased cooperation between the Lebanese and the Syrian forces occupying the Bika' is being credited for the successful eradication effort in 1993. This is in direct contrast with the international assessment of 1992 which held that an unusually harsh winter was largely responsible for the reduction in opium cultivation that year.

The Lebanese have not signed a bilateral narcotics agreement with the USG. Although there is some evidence of corruption, the Lebanese did not prosecute any significant narcotics-related corruption cases in 1993.

The United States has a vital national interest in Lebanon's continued progress towards national reconciliation; past conflict in that country has adversely impacted on Middle East peace and stability, a key foreign policy goal of the United States. Moreover, the United States is committed to preserving the territorial integrity of Lebanon in furtherance of the goal of regional stability. These vital interests would be endangered if US assistance to Lebanon were terminated. Although Lebanon must take additional steps to be found to be cooperating fully with the United States or to be taking adequate steps on its own to combat narcotics, the threat to Middle East stability posed by a fragmented and unstable Lebanon is greater than the threat posed by Lebanon's present role in the production of narcotics.

## NATIONAL INTEREST JUSTIFICATION

## PANAMA

The Government of Panama (GOP) has cooperated with many US drug control efforts, but has not made sufficient progress on its own to deter money laundering. At the end of 1993, GOP actions on behalf of certain key goals and objectives of the 1988 UN Convention remained incomplete, even though Panama ratified the Convention and eradicated coca fields. Panama's law enforcement performance showed improvement, but by year end was still weak and selective.

During 1993, GOP law enforcement agencies carried out an increased number of independent cocaine operations but, on September 1, DEA in Miami seized five tons of cocaine hidden in coffee packages shipped from the Colon Free Zone, evidence that large cocaine loads still transit Panamanian territory.

Despite increased private sector awareness of money laundering in 1993, and Panamals first-ever conviction of a money launderer (a Colombian national, tried in absentia), the GOP delayed until March 1994 adoption of a key potential countermeasure: cross-border currency controls. Panamanian agencies responsible for money laundering control are weak and do not adequately coordinate with one another, and their resources are inadequate. Law 23 of 1986 criminalizes a broad range of narcotics trafficking and money laundering activities but has proven ineffective in obtaining asset forfeiture. Last fall the National Assembly debated, but has not yet passed, new and tougher legislation to make anti-narcotics enforcement more effective.

The GOP investigated and/or prosecuted some well-publicized cases of corruption, including a former Attorney General. Nevertheless, the GOP was slow in removing lower-level officials when unpublishized charges were brought to its attention. Although GOP public prosecutors cooperated on some drug cases, they also did not follow through on all efforts by the US Department of Justice to prosecute and/or extradite wanted criminals in Panama.

Panama carried out active demand-reduction programs in 1993 and, with US and Colombian support, aggressively eradicated coca fields (covering 60-80 ha) and destroyed coca maceration pits in the Darien region near Colombia.

The GOP signed and ratified a Mutual Legal Assistance Treaty with the United States in 1991, but the US Senate has not yet given its advice and consent. The United States and Panama have bilateral agreements on ship boarding, maritime operations and essential chemicals; Panama observes these agreements. During 1993, the Judicial Technical Police provided surveillance support to a drug-seizure operation that led to a US Customs proposal to share a portion of funds forfeited in the United States.

The decision to certify Panama under FAA section 490(b)(1)(B) is based on the vital national interest of the United States in preserving a cooperative relationship to operate the Panama Canal, to carry out effectively the 1977 Panama Canal treaties, and to permit orderly withdrawal of US military forces. US foreign assistance to Panama supports Panamanian law enforcement agencies which help maintain a safe environment for US operation of the Canal, and assists GOP preparations for the Treaty-mandated transfer of the Canal to Panamanian control in 1999. Panama's failure to cooperate fully with the goals and objectives of the Convention or to take adequate steps on its own to combat narcotics makes it a haven for money launderers and hinders efforts to bring narcotraffickers to justice. Anti-narcotics law enforcement is hampered, but can operate under such circumstances. However, a cut-off of assistance could impair other GOP cooperation that is required more than ever as we move into the Canal Treaty's delicate transition period. For these reasons, the risk to vital US interests attendant to the termination of assistance that would accompany a denial of certification outweigh the risk posed by Panama's failure to cooperate fully with the US, or take adequate steps on its own, to combat narcotics. During the period of national interest certification, the USG will seek improved GOP drug control cooperation to meet the criteria for full certification.

## NATIONAL INTEREST JUSTIFICATION

## PERU

Despite continued corruption and resource shortfalls, the Government of Peru has taken steps to curb the illegal drug trade. The Peruvian air force and police have denied the traffickers access to a number of municipal airports in the coca-growing regions. Eight major clandestine airstrips have been blocked with cement barriers. Peruvian air force efforts to intercept trafficking aircraft have succeeded in forcing traffickers to fly almost exclusively at night, adopt longer routes to evade radars, and shift operations to outlying airfields. The Peruvian congress amended the penal code to provide for life sentences for narcotics offenses, and the new Peruvian constitution refers to narcotics as a crime against the state.

Nonetheless, as a matter of policy, the GOP will not eradicate illicit coca cultivations without outside economic development assistance. Although the USG supports the concept of comprehensive alternative development for coca growing communities, the failure of the Government of Peru to engage in eradication sends the wrong signal to coca farmers and traffickers. Although the number of hectares under coca cultivation dropped 16 percent, this was largely due to fungus blight and a shift in cultivation patterns. New coca cultivations have spread into areas of the country not previously associated with narcotics trafficking. These areas represent an expanding sphere of narcotics influence that has remained largely unaffected by the military and police's concerted efforts in the Huallaga Valley to disable clandestine airstrips and control precursor chemicals, air corridors, and municipal airports.

Narcotics-related corruption continues to undermine the law enforcement efforts of Peru's resource-starved anti-drug forces. For instance, when Peru took into custody one of Peru's major drug traffickers, intervention on the part of President Fujimori was necessary to ensure that the accused stood trial. Overall, it appears that President Fujimori has recognized the scope of the corruption problem and the Government of Peru has begun to take steps to crack down on dishonest military and police officers.

Vital US national interests would be harmed if we were to deny Peru certification. As Peru is the largest source of coca leaf in the world—and the supply of coca leaf has a direct impact on the availability of cocaine in the US—continued cooperation with the Government of Peru is very important to the United States. A vital national interest certification will ensure that US government policy and assistance remain focused on developing more effective Peruvian anti-drug efforts, while acknowledging that the Government of Peru's actions to date have not had the desired impact on the flow of cocaine to the United States. Further, such a certification will allow the United States to continue working closely with Peru on the other important issues on our bilateral agenda: the consolidation of democracy, economic reform, and human rights.

While the Government of Peru needs to do more to combat narcotics, the decrease in narcotics cooperation that would likely attend non-certification would result in even more cocaine entering the United States. In short, the risks associated with denying certification to Peru are greater than the risks associated with Peru's

failure in the past year to cooperate fully with the US, or to take adequate steps on its own, to combat narcotics. Continued cooperation with the Government of Peru will serve our drug control interests. We would be able to assist Peru in finalizing its national counternarcotics strategy, an ambitious plan which seeks to integrate mature coca eradication with alternative economic development. To date, the lack of any such strategy on the part of the Government of Peru has diffused donors' support efforts. Given US government budget reductions, any successful narcotics-related alternative development program will require substantial support from other donors and the MDBS. If Peru were not certified, the US would be required to vote against MDB lending.

Certification based upon our vital national interests will also prevent a cut-off of assistance, which would distract from our continuing dialogue with the Government of Peru on democracy, economic reform, and human rights. Indeed, if Peru is to move forward on narcotics control, we will need to ensure that its government respects human rights and falls squarely within the community of democratic nations. A strong democracy and respect for human rights are pre-conditions to effective efforts to staunch the illegal drug trade.

#### STATEMENT OF EXPLANATION (DENIAL OF CERTIFICATION)

##### BURMA

Despite frequent public statements and some law enforcement actions, the Government of Burma has not undertaken serious or sustained counternarcotics efforts since 1988. Burma remains the world's largest source of illicit opium and heroin: 1993 estimated potential opium production was a record 2,575 mt, as estimated hectareage increased over seven percent. The insurgent Kachin ethnic group continued to reduce opium cultivation and production in areas under its control. Narcotics corruption is a problem in Burma. In 1993, the GOB took actions against some military and civilian officials believed to have cooperated with narcotics traffickers. There is no bilateral narcotics agreement.

The government's political and military accommodations with several insurgent/trafficking groups continued, with no indication of the reduced opium production which the government claims is the goal of these arrangements. The government maintained its official contacts with major trafficking organizations and permitted leading drug traffickers to travel freely in the country. Burma did permit continued efforts by UNDCP to implement its four-country regional strategy (Burma, China, Laos, Thailand). However, the projects have yet to make meaningful progress, and are on such small scale that in themselves they can only hope to serve as models. Burma has again failed to fulfill a commitment to conduct a baseline aerial survey of the UNDCP project areas. Burma is a party to the 1988 UN Convention, and has much of the necessary implementing legislation in place, but has not taken meaningful steps to enforce it.

## STATEMENT OF EXPLANATION (DENIAL OF CERTIFICATION)

## IRAN

Iran is a major transshipment point for illegal opiates from Pakistan and Afghanistan destined principally for Europe and the United States, and a major opium-producing country. The USG estimates that the 1993 opium poppy cultivation was essentially the same in 1993 as 1992, about 3,500 ha, with a potential opium yield of between 35 and 70 metric tons.

The Government of Iran (GOI) does not have diplomatic relations or a bilateral narcotics agreement with the United States, and did not cooperate in illegal drug control with the U.S. in 1993. There are reports that Iran continued counternarcotics arrangements with neighboring countries. Iran has signed and ratified the 1988 UN Convention, but the USG cannot evaluate any GOI progress in achieving the goals and objectives of the Convention. Iranian authorities state they have made certain advances in the area of counternarcotics, but the USG's information to confirm these claims, as in the past, is not such that the USG can certify Iran under US law. We do not know the extent to which Iran seeks to prevent and punish public corruption.

## STATEMENT OF EXPLANATION (DENIAL OF CERTIFICATION)

## NIGERIA

Nigerian trafficking organizations control courier networks that move heroin from Asia to the United States and European markets and operate money laundering rings. These trafficking operations continue to expand in West Africa and throughout the world. In October 1993, the United States presented a demarche to the then-Head of State concerning Nigeria's poor counternarcotics performance. Similar presentations have been made at high levels of the current regime. Nigeria is a party to the 1988 UN Convention, but has not achieved the Convention's goals and objectives.

Official corruption remained a major obstacle to effective counternarcotics efforts. The governments of Nigeria during 1993 did not investigate any senior official alleged to be involved in the illicit drug trade. Nigeria did not apprehend and extradite three fugitive drug barons indicted in the United States for whom extradition requests from 1992 were still outstanding. While some legal mechanisms are in place to combat what seems to be extensive money laundering, Nigeria's governments made no significant attempt to enforce them. The Nigerian authorities did not effectively employ the limited assistance the United States provided in previous years.

On November 17, 1993, General Sani Abacha and colleagues in the Nigerian Army forced the provisional government to resign. They established a military/civilian Provisional Ruling Council and promised law and order and a constitutional conference to chart Nigeria's future. Though they abolished democratic institutions, which they call corrupt, they said they would set in motion processes that would lead to a democratically-elected civilian government. That process has not yet evolved. General Abacha wrote to President Clinton to ask that he not decertify his country.

The value to the United States of the projects affected do not come close to justifying a waiver.

STATEMENT OF EXPLANATION (DENIAL OF CERTIFICATION)

SYRIA

Syria is a transit country in a regional narcotics trafficking network for heroin and hashish. Its military presence in Lebanon makes Syria at least partly accountable for the cultivation and processing of illegal narcotics in that country.

The USG believes that some senior Syrian officials, including military personnel stationed in Lebanon, offer protection to or participate in the Lebanese drug trade for personal gain, not as a matter of state policy.

In 1993, the Syrians cooperated with the Lebanese to eradicate most of the opium poppy cultivation in the Bika' Valley. The Syrians also instituted a tough domestic anti-narcotics law in April 1993, including provisions for the seizure of assets obtained through trafficking. However, the Syrians have failed to take serious and sustained action to eliminate trafficking through Syrian and Lebanese territory and to destroy cocaine and heroin processing laboratories in the Bika' Valley. Syrian authorities also failed to investigate, arrest, or prosecute Syrian officials believed to be engaged in narcotics trafficking. Thus, while there was some progress, there are still significant problems to be addressed.

Syria did not meet many of the goals and objectives of the 1988 UN Convention. The USG does not provide Syria with bilateral assistance and does not support loans for Syria in multilateral institutions.

At the January Geneva summit between Presidents Clinton and Asad, it was agreed to establish a mechanism to address key US bilateral concerns, such as narcotics, in a sustained, methodical and ongoing manner.



## **F. Framework for International Drug Control Efforts**

### **THE WHITE HOUSE**

Office of the Press Secretary

For Immediate Release November 3, 1993

#### **STATEMENT BY THE PRESS SECRETARY**

The President today signed a decision directive that provides a policy framework for U.S. international drug control efforts as part of the Administration's over-all counter-drug policy. The President designated Director Lee Brown of the Office of National Drug Control Policy as responsible for oversight and direction for all counter-drug policies, in coordination with the National Security Council.

In his directive to agencies involved in the fight against illicit drugs in the hemisphere, the President said that the scourge of illegal narcotics is severely damaging the social fabric of the United States and other countries. He said that the operation of international criminal narcotics syndicates is a national security threat requiring an extraordinary and coordinated response by civilian and military agencies, both unilaterally and by mobilizing international cooperation with other nations and international organizations such as the U.N., OAS, and international financial institutions.

The President's directive, the result of an exhaustive eight-month review of U.S. international policies and strategies, instructed Federal agencies to change the emphasis in U.S. international drug programs from the past concentration largely on stopping narcotics shipments to a more evenly distributed effort across three programs:

- Assisting "source countries" in addressing the root causes of narcotics production and trafficking through assistance for sustainable development, strengthening democratic institutions, and cooperative programs to counter narcotics traffickers, money laundering and supply of chemical precursors
- Combatting international narco-trafficking organizations
- Emphasizing more selective and flexible interdiction programs near the U.S. border, in the transit zone, and in source countries

He directed that a working group chaired by the State Department manage implementation of the international strategy, reporting its activities to Director Brown.

The President stressed the need for American leadership in the fight against international drug trafficking. He pledged to work with the Congress to ensure adequate funding for international counter-drug programs.

## INTERNATIONAL DRUG POLICY

- Despite comprising *only a tenth* of the overall counter-drug budget (\$1.2 billion in FY93), our foreign efforts have been a “lightning rod” for much of the criticism levied at U.S. drug policies, especially interdiction.
- The interdiction effort has not been a failure as some have reported, but it *has* been expensive and a perception has evolved that interdiction is the “flag ship” in our foreign counter-drug effort and that the U.S. military is carrying the bulk of the support effort.
- Consequently, at the direction of the President, we have completed an exhaustive eight month review of our international policies and strategies and today the President signed a Directive establishing the policy framework from which we will develop an *international* drug strategy.

Let me outline for you some of the key points of the Directive:

- We will treat as a national security threat the operations of international criminal narcotics syndicates requiring an extraordinary and coordinated response by civilian and military agencies engaged in national security.
  - It is in our national interest to have strong neighbors and friends. These criminal syndicates are eroding the internal stability of already economically weakened countries. In this regard, counter-drug programs are fundamentally essential to strengthening democratic institutions and defending them against one of the most insidious threats to representative government, free market economies, human rights and environmental protection.
  - We will concentrate our financial support and material technical assistance to states that have the political will to confront this serious threat.
  - We will act unilaterally and in concert with other nations to implement the international strategy.
  - There will be a change of emphasis from the past concentration largely on stopping narcotics shipments to a more evenly distributed effort across three programs:
    - 1) Assisting institutions in other nations,
    - 2) destroying narco-trafficking organizations, and
    - 3) more selective and flexible interdiction programs near the U.S. border, in the transit zone, and in source countries.
  - The U.S. will lead an effort to mobilize international cooperation and action against all aspects of the illicit drug trade using the United Nations, the Organization of American States and other regional bodies. Also, Multinational Development Banks and other international financing institutions should increase their support for counter-drug programs.
  - We will work with the Congress and the Office of Management and Budget to limit reductions in funding for international counter-drug programs.
- (Optional) By December 1, a report will be submitted to the President on the status and implications of the budget cuts

and recommendations for budget projections for the implementation of the international strategy.

—Let me comment on some organizational changes directed by the President at the administration of international counter-drug policies.

- The Director, ONDCP will be responsible to the President for providing oversight and direction for all counter-drug policy development and implementation.
- The Director, ONDCP will also mediate interagency disputes and conduct periodic reviews of the international efforts.
- An interagency working group chaired by the State will be charged to manage the implementation of the international strategy and report their activities and any differences to the Director, ONDCP.
- The Director, ONDCP will appoint a coordinator who will report to the Director, ONDCP activities and differences in the international interdiction efforts. The Coordinator shall be advised by a committee of concerned agencies.
- Heads of departments and agencies will submit reports to the Director, ONDCP on steps they have taken to implement this directive.
- The Director, ONDCP will annually approve and submit an international drug control strategy to the President.

—As mentioned before, this Directive is the result of an arduous and lengthy process and describes policy changes that deviate significantly from the international counterdrug focus of the past. Effective international counterdrug policies require that they be merged with our overall foreign policies. Such change cannot be developed precipitously.

Some critics no doubt will argue that by reducing our interdiction focus and shifting to greater support for source countries, drug smuggling will increase considerably. But the review has concluded that despite valiant interdiction efforts by our military and civilian forces, the availability of drugs has not been significantly reduced at home. Neither are we terminating all interdiction efforts. We will continue a limited and focused interdiction effort both along our borders and abroad, remaining flexible to changing patterns.

This directive provides the foundation for developing and implementing changes in U.S. counter-drug efforts. Although this directive effects predominantly the production and trafficking of cocaine in this hemisphere, it tasks a comprehensive review of our global and heroin counter-drug programs. It also recognizes the need for additional and more specific studies on our command, control, communications and intelligence centers.

## **G. National Security Decision Directive No. 221: Narcotics and National Security**

### **WHITE HOUSE FACT SHEET**

On April 8, 1986, the President signed a National Security Decision Directive (NSDD) on Narcotics and National Security. That document assessed the threat from the international narcotics trade and directed specific actions to increase the effectiveness of U.S. counter-narcotics efforts. Some of its major points are:

- Criminal drug trafficking organizations can corrupt political and economic institutions and weaken the ability of foreign governments to control key areas of their own territory and populace.
- Some insurgent and terrorist groups cooperate closely with drug traffickers and use this as a major source of funds.
- It is the policy of the United States, working in cooperation with other nations, to halt the production and flow of illicit narcotics, reduce the ability of insurgent and terrorist groups to use drug trafficking to support their activities, and strengthen the ability of individual governments to confront and defeat this threat.
- Among the actions directed by the President were:
  - Full consideration of drug control activities in our foreign assistance planning.
  - An expanded role for U.S. military forces in supporting counter-narcotics efforts.
  - Additional emphasis on narcotics as a national security issue in discussions with other nations.
  - Greater participation by the U.S. intelligence community in supporting efforts to counter drug trafficking.
  - Improvements in counter-narcotics telecommunications capability.
  - More assistance to other nations in establishing and implementing their own drug abuse and education programs.
- The Attorney General, as Chairman of the National Drug Enforcement Policy Board, shall submit a report to the President giving the status of plans and accomplishments under the Directive.

## VII. BILATERAL TREATIES AND AGREEMENTS BETWEEN THE UNITED STATES AND OTHER NATIONS

### A. A Synopsis of U.S. Bilateral Narcotic Treaties and Agreements

(Excerpt from *Treaties in Force: A List of Treaties and Other International Agreements of the United States In Force on January 1, 1994*; U.S. Department of State. Updated October 18, 1994.)

#### Abbreviations

Bevans ....	Treaties and Other International Agreements of the United States of America, 1776-1949, compiled under the direction of Charles I. Bevans.
CFR .....	Codes of Federal Regulations.
EAS .....	Executive Agreement Series.
F.R. ....	Federal Register.
LNTS .....	League of Nations Treaty Series.
I Malloy, .	
II Malloy .	Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers 1776-1909, compiled under the direction of the United States Senate by William M. Malloy.
Stat .....	United States Statutes at Large.
TIAS .....	Treaties and Other International Act Series.
TS .....	Treaty Series.
UNTS .....	United Nations Treaty Series.
U.S.C. ....	United States Code.
UST .....	United States Treaties and Other International Agreements.

#### INTERNATIONAL DRUG AGREEMENTS OF THE UNITED STATES

<i>Afghanistan</i> .....	Agreement concerning the prohibition of opium poppy cultivation in the project area of the Central Helmand drainage project (phase II). Signed at Kabul August 29, 1977; entered into force August 29, 1977. 29 UST 2481; TIAS 8951; 1115 UNTS 339. Agreement concerning the prohibition of opium poppy cultivation in the project area of the integrated wheat development project. Signed at Kahul September 29, 1977; entered into force September 29, 1977. 29 UST 2479; TIAS 8950.
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- Argentina* ..... Memorandum of understanding on cooperation in the narcotics field. Signed at Buenos Aires September 15, 1972; entered into force September 15, 1972. 23 UST 2620; TIAS 7450; 852 UNTS 97.
- Austria* ..... Arrangement for the direct exchange of information regarding the traffic in narcotic drugs. Exchange of notes at Vienna April 10 and July 24, 1931; entered into force July 24, 1931. 5 Bevans 373.
- Bahamas* ..... Agreement for the interdiction of narcotics trafficking. Signed at Nassau March 6, 1985; entered into force March 6, 1985. TIAS 11123.  
 Agreement on the control of narcotic drugs and psychotropic substances, with appendix. Signed at Nassau February 17, 1989; entered into force February 17, 1989. TIAS.
- Belgium* ..... Arrangement for the direct exchange of information regarding the traffic in narcotic drugs. Exchange of notes at Brussels February 6 and June 13, 1928; entered into force June 13, 1928. 5 Bevans 545.
- Belize* ..... Mutual cooperation for reducing demand, preventing illicit use and combatting illicit production and traffic of drugs. Signed at Belmopan February 9, 1989; entered into force February 9, 1989. TIAS 11600.  
 Agreement concerning maritime counter-drug operations. Signed at Belmopan December 23, 1992; entered into force December 23, 1992. TIAS 11914.
- Bolivia* ..... Agreement concerning cooperation to combat narcotics trafficking, with annexes and related letter. Signed at La Paz February 24, 1987; entered into force August 13, 1987. TIAS.  
 Amendment: May 9, 1990.
- Brazil* ..... Agreement on cooperation in the field of control of illicit traffic of drugs, with annex. Exchange of notes at Brasilia July 19, 1983; entered into force July 19, 1983. TIAS 10756; 1331 UNTS 25. Extension: October 4 and December 3, 1984.  
 Amendments and extension: October 4 and December 3, 1994 (TIAS 11056). June 2 and 19, 1986.

- Mutual cooperation agreement for reducing demand, preventing illicit use and combatting illicit production and traffic of drugs. Signed at Brasilia September 3, 1986; entered into force June 13, 1991. TIAS 11382.
- Burma* ..... Agreement relating to the provision of helicopters and related assistance by the United States to help Burma in suppressing illegal narcotic production and traffic. Exchange of notes at Rangoon June 29, 1974; entered into force June 29, 1974. 25 UST 1518; TIAS 7887.
- Colombia* ..... Agreement relating to cooperation to curb the illegal traffic in narcotics. Exchange of notes at Bogota July 21 and August 6, 1980; entered into force August 6, 1980. 32 UST 2301; TIAS 9838.
- Memorandum of understanding concerning cooperation in the seizure and forfeiture of property and proceeds of illicit trafficking in narcotic drugs. Signed at Bogota July 24, 1990; entered into force July 24, 1990. TIAS.
- Mutual cooperation agreement to combat, prevent and control money laundering arising from illicit activities. Signed at San Antonio February 27, 1992; entered into force February 27, 1992. TIAS.
- Costa Rica* ..... Agreement relating to the provision of assistance to curb the production and traffic in illegal narcotics. Exchange of notes at San Jose May 29 and June 2, 1975; entered into force June 2, 1975. 32 UST 3868; TIAS 8220; 1045 UNTS 17.
- Agreement relating to the provision of additional assistance to support cooperative efforts to curb illegal narcotics production and traffic. Exchange of notes at San Jose June 21 and 24, 1976; entered into force June 24, 1976. 28 UST 2924; TIAS 8574; 1068 UNTS 189.
- Cuba* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Havana February 12 and March 7, 1930; entered into force March 7, 1930. 6 Bevans 1157.

- Czechoslovakia* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Prague February 9 and June 15, 1928; entered into force June 15, 1928. 6 Bevans 1263.
- Denmark* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Copenhagen February 3 and April 23, 1928; entered into force April 23, 1928. 7 Bevans 78.
- Dominican Republic* . Agreement on international narcotics control cooperation. Signed at Santo Domingo November 18, 1985; entered into force November 18, 1985. TIAS 11350.
- Ecuador* ..... Agreement concerning cooperation in the control of the illicit traffic in narcotics drugs. Exchange of notes at Quito November 5 and 10, 1971; entered into force November 10, 1971. 22 UST 2109; TIAS 7255.  
Memorandum of understanding on measures to prevent the diversion of chemical substances. Signed at Quito June 17, 1991; entered into force June 17, 1991. TIAS.  
Agreement for the prevention and control of narcotics-related money laundering. Signed at Quito August 7, 1992. Entered into force February 4, 1993.
- Egypt* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Alexandria June 29, 1930 and Cairo August 26, 1930; entered into force August 26, 1930. 11 Bevans 1331.  
Agreement regarding the transfer of forfeited assets. Signed at Cairo May 20, 1993. Entered into force May 20, 1993.
- France* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Paris December 27, 1927, and January 30, 1928; entered into force January 30, 1928. 7 Bevans 966.  
Agreement for the co-ordination of preventive and repressive action against the illicit narcotic and dangerous drug traffic. Signed at Paris February 26, 1971; entered into force February 26, 1971. 28 UST 8045; TIAS 8739; 1107 UNTS 153.  
Extension and amendment:



September 11, 1974 (28 UST 8056; TIAS 8739; 1107 UNTS 158). January 28, 1981 (TIAS 10538).

- Germany* ..... Arrangement concerning the exchange of information relating to the illicit traffic in narcotics. \* Exchange of notes at Washington January 17 and August 24, 1955, and March 7, 1956; entered into force March 7, 1956. 7 UST 371; TIAS 3514; 271 UNTS 361.
- Agreement concerning cooperation in the field of control of drug and narcotics abuse.\* Exchange of notes at Bonn and Bonn-Bad Godesberg June 9, 1978; entered into force June 9, 1978. 30 UST 4434; TIAS 9467; 1177 UNTS 317.
- Greece* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Athens February 7 and October 15, 1928; entered into force October 15, 1928. 8 Bevans 331.
- Haiti* ..... Agreement for the interdiction of narcotics trafficking. Signed at Port-au-Prince August 22, 1984; effective October 1, 1983. TIAS 11238.
- Honduras* ..... Agreement on mutual cooperation to combat the production of and illicit trafficking in drugs. Signed at Tegucigalpa November 14, 1988; entered into force May 15, 1989. TIAS 11632.
- Hong Kong* ..... Agreement extending the agreement of November 23, 1990, concerning the confiscation and forfeiture of the proceeds and instrumentalities of drug trafficking. Effected by exchange of notes at Hong Kong June 29 and July 7, 1993. Entered into force July 7, 1993; effective January 18, 1994.
- India* ..... Mutual cooperation agreement for reducing demand, preventing illicit use of and traffic in drugs, and for matters relating to licit trade in opiates. Signed at New Delhi March 29, 1990; entered into force March 29, 1990. TIAS.

- Indonesia* ..... Understandings concerning the assignment of a Drug Enforcement Administration representative to the American Embassy in Jakarta to advance the U.S.-Indonesian common interest in preventing illegal traffic in narcotic drugs, with annex. Exchange of letters at Jakarta April 1, 1975; entered into force April 1, 1975. 27 UST 2001; TIAS 8299 1052 UNTS 227.
- Italy* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Rome January 5 and April 27, 1928; entered into force April 27, 1928. 9 Bevans 156.
- Jamaica* ..... Agreement relating to the provision of helicopters and related assistance to Jamaica in connection with a program to interdict the illicit narcotics traffic between Jamaica and the United States. (Operation Buccaneer). Exchange of notes at Kingston August 9 and 21 and September 23, 1974; entered into force September 23, 1974. 25 UST 3068; TIAS 7966.
- Japan* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Tokyo February 16 and July 6, 1928; entered into force July 6, 1928. 9 Bevans 452.  
Arrangement for the exchange of information relating to the seizure of illicit narcotic drugs and to persons engaged in the illicit traffic. Exchange of notes at Tokyo April 23 and September 6, 1929; entered into force September 6, 1929. 9 Bevans 455.
- Laos* ..... Memorandum of understanding concerning cooperation on narcotics issues. Signed at Vientiane January 9, 1990; entered into force January 9, 1990. TIAS.
- Lebanon* ..... Grant agreement for a cooperative program to curtail illicit traffic in narcotics and dangerous drugs. Signed at Beirut June 29, 1973; entered into force June 29, 1973. 24 UST 1672; TIAS 7673.
- Malaysia* ..... Agreement relating to a cooperative program to combat the spread of heroin addiction and other forms of drug abuse in Malaysia. Exchange of notes at Kuala Lumpur November 16 and December 8, 1978; entered into force December 8, 1978. 30 UST 7183; TIAS 9577; 1182 UNTS 101.
- Amendment:

April 9 and May 18, 1979 (30 UST 7192; TIAS 9577; 1182 UNTS 105).

Memorandum of understanding for reducing demand, preventing illicit use and combatting illicit production and traffic of drugs, including precursor chemicals.

Signed at Kuala Lumpur April 20, 1989; entered into force April 20, 1989. TIAS.

*Mexico* .....

Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Mexico August 5 and October 2, 1930; entered into force October 2, 1930. 9 Bevans 967.

Agreement concerning a grant to Mexico of reference books in the field of narcotics abuse. Exchange of letters at Mexico June 26 and 27, 1973; entered into force June 27, 1973. 24 UST 1805; TIAS 7694.

Agreement relating to the provision by the United States of communications equipment to combat contraband and especially the illegal flow of narcotics across the border. Exchange of notes at Mexico and Tlatelolco August 31, 1973; entered into force August 31, 1973. 24 UST 1978; TIAS 7709.

Agreement relating to the provision by the United States of technical assistance in an epidemiological study of drug abuse in Mexico. Exchange of notes at Mexico October 26 and November 7, 1973; entered into force November 7, 1973. 24 UST 2245; TIAS 7742; 938 UNTS 367.

Agreement concerning the provision of four helicopters and related assistance by the United States to help Mexico in curbing traffic in illegal narcotics. Exchange of letters at Mexico December 3, 1973; entered into force December 3, 1973. 25 UST 1694; TIAS 7906.

Amendments:

December 21, 1973 (25 UST 1698; TIAS 7906).

June 24, 1974 (25 UST 1700; TIAS 7906).

Agreement providing additional helicopters and related assistance to Mexico in support of its efforts to curb production and traffic in illegal narcotics. Exchange of letters at Mexico February 1, 1974; entered into force February 1, 1974. 25 UST 1704; TIAS 7907.

Amendments:

June 24, 1974 (25 UST 1708; TIAS 7907).  
December 4, 1974 (25 UST 3172; TIAS 7983).

Agreement relating to the provision of support by the United States for a multi-spectral aerial photographic system capable of detecting opium poppy cultivation, with annexes. Exchange of letters at Mexico June 10 and 24, 1974; entered into force June 24, 1974. 25 UST 1286; TIAS 7863.

Amendment:

September 19, 1974 (25 UST 2963; TIAS 7956).

Agreement providing additional helicopters and related assistance to Mexico in support of its efforts to curb illegal production and traffic in narcotics. Exchange of letters at Mexico November 1, 1974; entered into force November 1, 1974. 25 UST 2956; TIAS 7955.

Agreement relating to a training program for Mexican helicopter pilots and mechanics as part of U.S.-Mexican cooperative efforts to reduce traffic in illegal narcotics. Exchange of letters at Mexico September 30, 1974; entered into force September 30, 1974. 25 UST 3166; TIAS 7982; 991 UNTS 367.

Agreement relating to the provision of assistance to Mexico in narcotics enforcement training activities. Exchange of letters at Mexico December 4, 1974; entered into force December 4, 1974. 25 UST 3176; TIAS 7984; 991 UNTS 373.

Agreement relating to cooperative arrangements to support Mexican efforts to curb the illegal traffic in narcotics. Exchange of letters at Mexico December 11, 1974; entered into force December 11, 1974. 26 UST 1274; TIAS 8108.

Amendments:

February 24, 1975 (26 UST 1285;; TIAS 8108).

March 20, 1975 (26 UST 1289; TIAS 8108).

May 18, 1976 (27 UST 1977; TIAS 8295).

Agreement concerning the provision by the United States of four mobile interdiction systems for use in curbing the illicit flow of narcotic substances through Mexico. Exchange of letters at Mexico February 24, 1975; entered into force February 24, 1975. 26 UST 414; TIAS 8041; 991 UNTS 379.

Agreement relating to the provision of equipment and training by the United States to support U.S.-Mexican efforts to curb illegal narcotics traffic. Exchange of letters at Mexico May 29, 1975; entered into force May 29, 1975. 26 UST 1633; TIAS 8123; 1006 UNTS 37.

Agreement relating to the provision of equipment and training by the United States to support U.S.-Mexican efforts to curb illegal narcotics traffic. Exchange of letters at Mexico June 25, 1975; entered into force June 25, 1975. 26 UST 1659; TIAS 8125; 1006 UNTS 43.

Agreement to indemnify and safeguard the United States Government, its personnel and contractors for liability arising out of aircraft operations training in support of the cooperative program to curb illegal narcotics traffic. Exchange of letters at Mexico September 12, 1975; entered into force September 12, 1975. 27 UST 1985; TIAS 8296.

Amendment:

August 13, 1976 (28 UST 8241; TIAS 8758).

Agreement relating to the provision of two helicopters by the United States to support U.S.-Mexican efforts to curb the production and traffic in illegal narcotics. Exchange of letters at Mexico October 24 and 29, 1975; entered into force October 29, 1975. 27 UST 1996; TIAS 8298.

Agreement relating to the provision of aircraft by the United States to support U.S.-Mexican efforts to curb the illegal production and traffic in narcotics. Exchange of letters at Mexico January 29, 1976; entered into force January 29, 1976. 27 UST 4261; TIAS 8449.

Agreement relating to the provision of supplies, equipment, and services by the United States to support U.S.-Mexican efforts to curb the illegal production and traffic in narcotics. Exchange of letters at Mexico February 4, 1976; entered into force February 4, 1976. 27 UST 1973; TIAS 8294.

Amendment:

May 18, 1976 (27 UST 1977; TIAS 8295).

Agreement relating to additional cooperative arrangements to curb illegal traffic in narcotics. Exchange of letters at Mexico June 30, 1976; entered into force June 30, 1976. 27 UST 1990; TIAS 8297.

Agreement relating to the provision of additional equipment, material and technical support by the United States to curb illegal traffic in narcotics. Exchange of letters at Mexico August 9, 1976; entered into force August 9, 1976. 27 UST 3937; TIAS 8411; 1059 UNTS 123.

Agreement relating to the provision of additional assistance by the United States to curb illegal traffic in narcotics and amending the agreements of August 9, 1976 and May 18, 1976. Exchange of letters at Mexico September 30, 1976; entered into force September 30, 1976. 27 UST 4306; TIAS 8451.

Agreement relating to additional cooperative arrangements to curb the illegal production and traffic in narcotics. Exchange of letters at Mexico November 22, 1976; entered into force November 22, 1976. 28 UST 8157; TIAS 8750.

Agreement relating to additional cooperative arrangements to curb the illegal production and traffic in narcotics. Exchange of letters at Mexico February 16, 1977; entered into force February 16, 1977. 29 UST 5334; TIAS 9113; 1148 UNTS 2.

Extension and amendments:

July 28, 1977 (29 UST 5334; TIAS 9113; 1148 UNTS 8).

December 19, 1977 (29 UST 5347; TIAS 9114; 1148 UNTS 11).

January 3, 1978 (29 UST 5352; TIAS 9115; 1148 UNTS 14).

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico March 8, 1977; entered into force March 8, 1977. 29 UST 268; TIAS 8810.

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics, with annexes. Exchange of notes at Mexico June 2, 1977; entered into force June 2, 1977. 29 UST 2483; TIAS 8952.

Amendments:

September 28, 1977 (29 UST 2496; TIAS 8952).  
 July 20 and 26, 1978 (30 UST 1285; TIAS 9251; 1153 UNTS 454).  
 August 24, 1978 (30 UST 1289; TIAS 9251; 1153 UNTS 457).  
 January 15, 1979 (30 UST 1294; TIAS 9251; 1153 UNTS 460).  
 September 27 and 28, 1979 (31 UST 4760; TIAS 9637; 1202 UNTS 416).  
 December 5, 1979 (31 UST 5913; TIAS 9695; 1221 UNTS 376).  
 April 11, 1980 (32 UST 992; TIAS 9749; 1221 UNTS 379).  
 November 6, 1980 (TIAS 9933; 1226 UNTS 326).  
 January 2, 1981 (32 UST 4525; TIAS 9963; 1266 UNTS 329).  
 August 19, 1981 (33 UST 3683; TIAS 10249).  
 October 14, 1981 (33 UST 4081; TIAS 10285).  
 December 4, 1981 (33 UST 4406; TIAS 10310).  
 January 6 and 8, 1982 (TIAS 10336).  
 March 15 and 17, 1982 (TIAS 10360).  
 August 6, 1982 (TIAS 10430).  
 November 8, 1982 (TIAS 10582).  
 February 9, 1983 (TIAS 10657).  
 May 12 and 27, 1983 (TIAS 10657).  
 November 10, 1983 (TIAS 10907).  
 January 4, 1984 (TIAS 11124).  
 May 29, 1984 (TIAS 11124).  
 October 29, 1984 (TIAS 11124).  
 February 4, 1985.  
 April 3, 1985.  
 September 13 and 25, 1985.  
 November 13 and 29, 1985.  
 November 29 and December 2, 1985.  
 January 13 and March 12, 1986 (TIAS 11517).  
 March 13 and April 7, 1986 (TIAS 11517).  
 June 3 and July 1, 1986 (TIAS 11517).  
 November 3 and December 18, 1986 (TIAS 11517).  
 July 14 and 28, 1987 (TIAS 11561).  
 August 7 and 28, 1987 (TIAS 11561).  
 August 10 and 28, 1987 (TIAS 11561).  
 December 22, 1987 and February 11, 1988 (TIAS 11652).

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico July 29, 1977; entered into force July 29, 1977. 29 UST 1509; TIAS 8895.

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico August 5, 1977; entered into force August 5, 1977. 29 UST 2500; TIAS 8953.

Amendment:

September 29, 1977 (29 UST 2505; TIAS 8953).

Agreement relating to computerization of information in support of programs against illegal narcotics production and traffic. Exchange of letters at Mexico September 6, 1977; entered into force September 6, 1977. 29 UST 2551; TIAS 8955.

Agreement relating to the development of telecommunications capability to support the narcotics control effort. Exchange of letters at Mexico September 7, 1977; entered into force September 7, 1977. 29 UST 1994; TIAS 8915.

Agreement concerning training for helicopter pilots as part of the cooperative effort to reduce illegal narcotics traffic. Exchange of letters at Mexico April 3, 1978; entered into force April 3, 1978. 30 UST 1007; TIAS 9234; 1152 UNTS 235.

Agreement relating to additional cooperative arrangements to curb the illegal production and traffic in narcotics. Exchange of letters at Mexico May 15, 1978; entered into force May 15, 1978. 30 UST 1270; TIAS 9250; 1152 UNTS 241; 30 UST 1270.

Amendments:

January 5, 1979 (30 UST 1276; TIAS 9250; 1152 UNTS 245).

February 7, 1979 (30 UST 1280; TIAS 9250; 1152 UNTS 248).

July 23, 1979 (TIAS 9544; 1179 UNTS 414).

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico May 16, 1978; entered into force May 16, 1978. TIAS 9252.

Amendments:

January 8, 1979 (30 UST 1305; TIAS 9252; 1152 UNTS 261).



July 24, 1979 (30 UST 6197; TIAS 9546; 1179 UNTS 419).

Agreement concerning an illicit crop detection system to be used in curbing the illegal traffic in narcotics. Exchange of letters at Mexico May 22, 1978; entered into force May 22, 1978. 30 UST 1237; TIAS 9248; 1152 UNTS 269.

Amendments:

September 26, 1978 (30 UST 1247; TIAS 9248; 1152 UNTS 275).

January 12, 1979 (30 UST 1251; TIAS 9248; 1152 UNTS 278).

December 6, 1979 (31 UST 5904; TIAS 9693; 1221 UNTS 449).

January 27, 1981 (33 UST 990; TIAS 10082; 1274 UNTS 411).

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico May 23, 1978; entered into force May 23, 1978. 30 UST 1255; TIAS 9249; 1152 UNTS 289.

Amendments:

July 11 and 13, 1978 (30 UST 1262; TIAS 9249; 1152 UNTS 293).

January 11, 1979 (30 UST 1266; TIAS 9249; 1152 UNTS 296).

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico May 24, 1978; entered into force May 24, 1978. 30 UST 1488; TIAS 9258; 1148 UNTS 26.

Amendments:

January 9, 1979 (30 UST 1494; TIAS 9258; 1148 UNTS 31).

April 20, 1979 (30 UST 1498; TIAS 9258; 1148 UNTS 34).

Agreement relating to the provision and utilization of aircraft to curb the illegal traffic in narcotics. Exchange of letters at Mexico August 23, 1978; entered into force August 23, 1978.

30 UST 1319; TIAS 9254; 1152 UNTS 305.

Amendment:

July 26, 1979 (30 UST 6191; TIAS 9545; 1179 UNTS 424).

Agreement relating to computerization of information in support of programs against illegal narcotics production and traffic. Exchange of letters at Mexico August 25, 1978; entered into force August 25, 1978. 30 UST 1309; TIAS 9253; 1152 UNTS 311.

Amendment:

January 10, 1979 (30 UST 1315; TIAS 9253; 1152 UNTS 315).

Agreement concerning the provision of additional technical assistance to curb the illegal traffic in narcotics. Exchange of letters at Mexico September 28, 1978; entered into force September 28, 1978. 30 UST 1729; TIAS 9282; 1152 UNTS 323.

Agreement relating to salary supplement to personnel dedicated to opium poppy eradication and narcotics eradication. Exchange of letters at Mexico December 3, 1979; entered into force December 3, 1979. 31 UST 5918; TIAS 9696; 1221 UNTS 199.

Amendments:

April 25, 1980 (32 UST 1324; TIAS 9772); 1221 UNTS 203).

October 10, 1980 (32 UST 2901; TIAS 9884; 1274 UNTS 436).

December 29, 1981 (TIAS 10329).

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico April 7, 1980; entered into force April 7, 1980. 32 UST 997; TIAS 9750.

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico July 25, 1980; entered into force July 25, 1980. 32 UST 2105; TIAS 9822.

Amendments:

December 2, 1980 (33 UST 1217; TIAS 10106; 1285 UNTS 347).

March 31, 1981 (33 UST 1535; TIAS 10129).

April 2, 1982 (TIAS 10519).

May 17, 1984 (TIAS 11122).

September 25 and October 10, 1984 (TIAS 11122).

April 2, 1985 (TIAS 11346).

July 24 and August 20, 1985 (TIAS 11347).

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico January 3, 1981; entered into force January 3, 1981. 33 UST 823; TIAS 10064; 1267 UNTS 181.

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico April 8, 1981; entered into force April 8, 1981. 33 UST 1757; TIAS 10142.

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico March 29, 1983; entered into force March 29, 1983. TIAS 10675.

Amendments:

April 25, 1985 (TIAS 11348).

November 25 and 29, 1985 (TIAS 11349).

January 29 and March 12, 1986 (TIAS 11348).

August 25 and September 29, 1986 (TIAS 11349).

September 27 and 30, 1986.

March 16 and April 14, 1987 (TIAS 11548).

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters to Mexico November 5, 1984; entered into force November 5, 1984. TIAS 11125.

Agreement on cooperation in combatting narcotics trafficking and drug dependency. Signed at Mexico February 23, 1989; entered into force July 30, 1990. TIAS.

Agreement relating to additional cooperative arrangements to curb the illegal traffic in narcotics. Exchange of letters at Mexico November 5, 1984; entered into force November 5, 1984. TIAS.

Agreement on cooperation in combatting narcotics trafficking and drug dependency. Signed at Mexico February 23, 1989; entered into force July 30, 1990. TIAS.

*Morocco* .....

Agreement regarding joint cooperation in fighting against international terrorism, organized crime, and the illicit production, trafficking and abuse of narcotics. Signed at Rabat February 10, 1989; entered into force February 10, 1989. TIAS.

- Nigeria* ..... Mutual cooperation agreement for reducing demand, preventing illicit use and combatting illicit production and trafficking in drugs. Exchange of notes at Lago January 13 and 24, 1989; entered into force January 24, 1989. TIAS.
- Panama* ..... Mutual cooperation for reducing demand, preventing illicit use and combatting illicit production and traffic of drugs. Signed at Panama January 10, 1990; entered into force January 10, 1990. TIAS.
- Paraguay* ..... Agreement on the control of the unlawful use of and illicit trafficking in narcotics and other dangerous drugs. Signed at Asuncion October 26, 1972; entered into force provisionally October 26, 1972; definitively January 11, 1973. 24 UST 1008; TIAS 7613.
- ..... Mutual cooperation agreement for reducing demand, illicit production and traffic of drugs. Signed at Asuncion September 22, 1988; entered into force September 22, 1988. TIAS.
- Peru* ..... Agreement regarding cooperation in the prevention and control of money laundering arising from illicit trafficking in narcotic drugs and psychotropic substances, with attachment. Signed at Lima October 14, 1991; entered into force October 14, 1991. TIAS.
- Poland* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Warsaw August 17 and September 17, 1931; entered into force September 17, 1931. 11 Bevans 257.
- Portugal* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Lisbon February 11, 1928, and February 22, 1929; entered into force February 22, 1929. 11 Bevans 341.
- Romania* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Bucharest February 4, 1928, and April 17, 1929; entered into force April 17, 1929. 11 Bevans 414.

- Spain* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Madrid February 3, March 10, and May 24, 1928; entered into force May 24, 1928. 11 Bevans 684.
- Switzerland* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Bern November 15 and 16, 1929; entered into force November 16, 1929. 11 Bevans 917.
- Taiwan* ..... On January 1, 1979, the United States recognized the Government of the People's Republic of China the sole legal government of China.  
Pursuant to Section 6 of the Taiwan Relations Act (P.L. 96-8, 93 Stat. 14, 22 U.S.C. 3305) and Executive Order 12143, 44 F.R. 37191, the following agreements concluded with the Taiwan authorities prior to January 1, 1979, and any multilateral treaty or agreement relationship are administered on a nongovernmental basis by the American Institute in Taiwan, a nonprofit District of Columbia corporation, and constitute neither recognition of the Taiwan authorities nor the continuation of any official relationship with Taiwan.  
Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Nanking March 12, June 21, July 28, and August 30, 1947; entered into force August 30, 1947. 6 Bevans 797.
- Thailand* ..... Memorandum of understanding on cooperation in the narcotics field. Signed at Washington September 28, 1971; entered into force September 28, 1971. 22 UST 1587; TIAS 7185; 807 UNTS 49.
- Turkey* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at Constantinople and Angora February 18 and October 3, 1928; entered into force October 3, 1928. 11 Bevans 1117.
- United Kingdom* ..... Arrangement for the direct exchange of certain information regarding the traffic in narcotic drugs. Exchange of notes at London December 23, 1927, and January 4 and 11, 1928. Entered into force January 11, 1928. 12 Bevans 467.

Agreement to facilitate the interdiction by the United States of vessels of the United Kingdom suspected of trafficking in drugs. Exchange of notes at London November 13, 1981; entered into force November 13, 1981. 33 UST 4224; TIAS 10296; 1285 UNTS 197.

Agreement concerning the Cayman Islands and narcotics activities. Exchange of letters at London, July 26, 1984; entered into force August 29, 1984. TIAS.

Extension:  
February 27, 1990.

Agreement concerning the Turks and Caicos Islands and narcotics activities, with annex and forms. Exchange of letters at Washington, September 18, 1986; entered into force October 21, 1986. TIAS.

Extension:  
October 17, 1990.

Agreement concerning Anguilla and narcotics activities, with annex and forms. Exchange of letters at Washington, March 11, 1987; entered into force March 27, 1987. TIAS 11686.

Extension:  
September 26, 1990.

Agreement concerning the British Virgin Islands and narcotics activities, with annex and forms. Exchange of letters at London, April 14, 1987; entered into force August 12, 1987. TIAS 11685.

Extension:  
August 9, 1990.

Agreement concerning Montserrat and narcotic activities, with annex and forms. Exchange of letters at Washington May 14, 1987; entered into force June 1, 1987. TIAS.

Extension:  
February 26, 1991.

Agreement concerning the investigation of drug trafficking offenses and the seizure and forfeiture of proceeds and instrumentalities of drug trafficking, with attachment and exchange of notes. Signed at London February 9, 1988; entered into force April 11, 1989. TIAS 11649.

Agreement extending application of the agreement of February 9, 1988, concerning the investigation of drug trafficking offenses and seizure and forfeiture of proceeds and instrumentalities of drug trafficking to the Isle of Man. Exchange of notes at London, September 30, 1992; entered into force September 30, 1992. TIAS.

Agreement extending application of the agreement of February 9, 1988, concerning the investigation of drug trafficking offenses and seizure and forfeiture of proceeds and instrumentalities of drug trafficking to Gibraltar. Exchange of notes at London September 30, 1992; entered into force September 30, 1992. TIAS.

U.S.S.R. .... The Union of Soviet Socialist Republics dissolved December 25, 1991. The United States is reviewing the continued applicability of the agreements listed below. Bilateral agreements subsequent to December 31, 1991, are listed under individual country headings.

Memorandum of understanding on cooperation to combat illegal narcotics trafficking. Signed at Paris January 8, 1989; entered into force January 8, 1989. TIAS 11436.

Agreement on a mutual understanding on cooperation in the struggle against the illicit traffic in narcotics. Signed at Washington January 31, 1990; entered into force January 31, 1990. TIAS.

Venezuela ..... Agreement concerning the establishment and operation of a regional office of the Drug Enforcement Administration in Caracas. Exchange of notes at Caracas August 26, 1974. Entered into force August 26, 1974. 25 UST 2440; TIAS 7925.

Memorandum of understanding concerning cooperation in the narcotics field. Signed at Caracas March 28, 1978; entered into force March 28, 1978. 30 UST 1012; TIAS 9235; 1152 UNTS 203.

Agreement to suppress illicit traffic in narcotic drugs and psychotropic substances by sea. Signed at Caracas November 9, 1991; entered into force November 9, 1991. TIAS 11827.

Yugoslavia ..... Yugoslavia has dissolved. The status of the agreements listed below is under review.

Arrangement for the direct exchange of certain information regarding traffic in narcotic drugs. Exchange of notes at Belgrade February 17, 1928, and May 8, 1930; entered into force May 8, 1930. 12 Bevans 1259.

\*Applicable to Land Berlin except for paragraph 3,4 of the 1978 agreement (TIAS 9467).



## **B. Sample Mutual Legal Assistance Treaty (MLAT)**

### **AGREEMENT**

**BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND CONCERNING THE INVESTIGATION OF DRUG TRAFFICKING OFFENCES AND THE SEIZURE AND FORFEITURE OF PROCEEDS AND INSTRUMENTALITIES OF DRUG TRAFFICKING**

The Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland,

Desiring to improve the effectiveness of law enforcement in both countries in the investigation, prosecution, and suppression of drug trafficking and in the forfeiture of proceeds and instrumentalities of drug trafficking;

Have agreed as follows:

#### **ARTICLE 1. SCOPE OF ASSISTANCE**

(1) The Parties shall provide mutual assistance, in accordance with the provisions of this Agreement, in investigations, prosecutions, forfeitures and other proceedings connected with drug trafficking. In this Agreement, "drug trafficking" means any drug trafficking activity referred to in Article 36 of the Single Convention on Narcotic Drugs (1961), as amended by the 1972 Protocol; in the Convention on Psychotropic Substances (1971); or in any other international agreement or arrangement binding upon both Parties (hereinafter collectively referred to as "the Conventions"), and any activity connected with, arising from, related to or resulting from such trafficking.

(2) This Agreement shall apply:

(a) in relation to the United Kingdom: to England and Wales and, subject to any necessary modifications, by agreement between the Parties embodied in an exchange of Notes through the diplomatic channel, to Scotland and Northern Ireland and to any territories for the international relations of which the United Kingdom is responsible; and

(b) to the United States of America.

(3) For the purpose of paragraph (1), assistance shall include, but not be limited to:

(a) taking the testimony or statements of persons;

(b) providing documentary information, records, and articles of evidence, including bank, financial, corporate, and business records;

(c) executing requests for searches and seizures; and

(d) freezing and forfeiting the proceeds and instrumentalities of drug trafficking.

(4) This Agreement is intended solely for mutual assistance between the Parties. The provisions of the Agreement shall not create any right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

## ARTICLE 2. DEFINITIONS

For the purposes of this Agreement:

- (a) "Proceedings" includes any action before:
  - (i) any criminal or civil court;
  - (ii) any grand jury in the United States;
  - (iii) any preliminary inquiry in the United Kingdom;
  - (iv) any court or administrative agency performing an adjudicatory or investigative function with respect to the imposition of civil or administrative sanctions or the issuance of an order imposing forfeiture; or
  - (v) any similar body acting or taking steps or measures to facilitate forfeiture or the investigation, prosecution, or suppression of drug trafficking;
- (b) "Seizure" means assuming custody or control of evidence, proceedings or instrumentalities of drug trafficking as directed by order of a court or other competent authority;
- (c) "Freezing" means prohibiting the conversion, disposition, movement, or transfer of legal ownership of proceeds or instrumentalities by order of a court or other competent authority;
- (d) "Forfeiture" means the deprivation or transfer of legal ownership or possession of proceeds or instrumentalities of drug trafficking by order of a court or other competent authority;
- (e) "Proceeds" means property of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and deeds and instruments evidencing right or title to or interest in such property derived directly or indirectly from drug trafficking, and substitute assets;
- (f) "Instrumentalities" means any and all property, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and deeds and instruments evidencing right or title to or interest in such property, used or intended to be used to further drug trafficking in any way;
- (g) "Documentary information" includes, but is not limited to, any document, memorandum, report, record, or data compilation in any form, and any plan, graph, drawing, or photograph, and any disc, tape, or other device for audio reproduction or computer use, and any film, disc, negative, tape or other device for visual image reproduction.

## ARTICLE 3. CENTRAL AUTHORITIES

- (1) A Central Authority shall be established by each Party.
- (2) For the United States of America, the Central Authority shall be the Attorney General or a person designated by him. For the United Kingdom, the Central Authority shall be the Secretary of State for the Home Department or a person or agency designated by him.

(3) Requests under this Agreement shall be made by the Central Authority of the requesting Party to the Central Authority of the Requested Party.

#### ARTICLE 4. FORM AND CONTENT OF REQUESTS

(1) Requests shall be submitted in writing except in urgent cases. In urgent cases, the request may be made orally, but shall be confirmed in writing within ten days thereafter.

(2) A request made pursuant to this Agreement shall state that it is so made and shall include the following:

(a) the name of the authority conducting the investigation, prosecution or proceedings to which the request relates;

(b) the purpose of the request;

(c) the nature of the investigation, prosecution or proceeding in relation to which the request is made and, where a person or property is suspected of involvement in drug trafficking, the name or description of that person or property, if known;

(d) where evidence, proceeds or instrumentalities are to be frozen, seized or forfeited, a statement setting forth the basis for believing that the person or property referred to in (c) above is involved in drug trafficking and, where appropriate, the connection between the person referred to in (c) above and the property to which the request relates;

(e) a description of the evidence, documentary information or other assistance sought.

(3) To the extent necessary and possible, a request shall also include:

(a) the identity and location of any person from whom evidence is sought;

(b) a precise description of the place or person to be searched;

(c) a precise description of the proceeds or instrumentalities in respect of which freezing, seizure or forfeiture is sought;

(d) a description of the manner in which any testimony or statement is requested to be taken and recorded;

(e) a list of questions to be asked of a witness;

(f) a description of any particular procedure requested to be followed in executing the request; and

(g) any other information which may be brought to the attention of the Requested Party to facilitate its execution of the request.

(4) The Requested Party may ask the Requesting State to provide any further information which appears to it to be necessary for the purpose of executing the request.

(5) The Requested Party shall use its best efforts to maintain the confidentiality of a request and its contents where such a requirement forms part of the request. If the request cannot be executed without breaching the required confidentiality, the Central Authority of the Requested Party shall so inform the Central Authority of the Requesting Party, which shall then decide whether the request should nevertheless be executed.

#### ARTICLE 5. EXECUTION OF REQUESTS

(1) Subject to the provisions of its national laws, the Central Authority of the Requested State shall take whatever steps appear to

it to be necessary to give effect to requests received from the Requesting Party, including compulsory measures where appropriate.

(2) When execution of the request requires judicial or administrative action, the request shall be presented to the appropriate authority by the persons designated by the Central Authority of the Requested Party.

(3) The method of execution specified in the request shall be followed to the extent that it is compatible with the laws of the Requested Party.

(4) If the execution of a request would interfere with an ongoing investigation, prosecution or proceeding in the territory of the Requested Party, the Central Authority of that Party may postpone execution, or make execution subject to conditions determined necessary after consultations with the Central Authority of the Requesting Party.

(5) The Central Authority of the Requested Party may deny assistance if execution of the request would prejudice the security or other essential interests of the Requested Party.

(6) Before denying assistance pursuant to this Article, the Central Authority of the Requested Party shall consult with the Central Authority of the Requesting Party to consider whether assistance can be given subject to such conditions as it deems necessary.

(7) If the Requesting Party accepts assistance subject to conditions established pursuant to paragraphs (4) and (6) of this Article, it shall comply with those conditions.

(8) The Requesting Party shall inform the Requested Party promptly of any circumstances which make it inappropriate to proceed with the execution of the request, or which require modification of the action requested.

(9) The Central Authority of the Requested Party shall promptly inform the Central Authority of the Requesting Party of the outcome of the execution of the request. If the request is denied, whether by the Central Authority or by judicial or administrative action, the Central Authority of the Requested Party shall inform the Central Authority of the Requesting Party of the reasons for the denial.

## ARTICLE 6. COSTS

Unless otherwise agreed, the Requested Party shall pay all costs relating to the execution of the request, except for the fees of expert witnesses and the allowances and expenses related to travel of persons pursuant to Article 9, which fees, allowances, and expenses shall be paid by the Requesting Party.

## ARTICLE 7. RECORD OF GOVERNMENT AGENCIES

(1) The Requested Party shall provide the Requesting Party with copies of publicly available records of government departments and agencies in the territory of the Requested Party.

(2) The Requested Party may provide copies of any record or information in the possession of a government department, agency or a law enforcement entity in its territory, but not publicly available, to the same extent and under the same conditions as such records

of information would be available to its own law enforcement or judicial authorities. The Requested Party may in its discretion deny a request pursuant to this paragraph entirely or in part.

(3) Official records produced pursuant to this Article shall be authenticated in accordance with the provisions of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, done at the Hague on 5 October, 1961.

#### ARTICLE 8. AUTHENTICATION OF DOCUMENTARY INFORMATION OTHER THAN OFFICIAL RECORDS

Except for official records of government agencies, if authentication is desired the Requested Party shall seek to authenticate the documentary information by the attestation of a person competent to do so, in the manner indicated in the appended Form A or such other form as may be agreed.

#### ARTICLE 9. TESTIMONY

(1) Voluntary testimony provided by a person with respect to matters covered by this Agreement may be taken by affidavit, deposition in the territory of the Requested or Requesting Party, appearance at a proceeding in the territory of the Requested Party, or such other procedure as may be agreed upon among the Parties and the witness. If a deposition is to be taken in the territory of the Requested Party, that Party shall authorise the presence of persons named in the Request and permit such persons to propound questions to the deponent.

(2) where a deposition is being taken in the territory of the Requested Party, the Central Authorities shall co-ordinate the date and place for the taking of the testimony.

(3) When the appearance of a person who is in the territory of the Requested Party is needed in the Requesting Party, the Central Authority of the Requested Party shall invite the individual to appear in person before the appropriate authority in the territory of the Requesting Party, and shall indicate the extent to which that person's expenses shall be paid. The response of the person shall be communicated promptly to the Requesting Party.

(4) The execution by compulsory process of a request for testimony shall be subject to the law of the Requested Party. The Requested Party may require that court proceedings shall have been instituted in the territory of the Requesting Party before it applies its own compulsory process. In this paragraph, instituted court proceedings include grand jury investigations.

#### ARTICLE 10. ASSISTANCE IN FORFEITURE PROCEEDINGS

(1) To the extent permitted by their respective laws, the Parties shall assist each other in proceedings involving the freezing, seizure or forfeiture of the proceeds and instrumentalities of drug trafficking and in relation to proceedings involving the imposition of fines.

(2) If the Central Authority of one Party becomes aware that proceeds or instrumentalities are located in the territory of the other Party and may be liable to freezing, seizure or forfeiture under the laws of that Party, it may so inform the Central Authority of the

other Party. If the Party so notified has jurisdiction, this information may be presented to its authorities for a determination whether any action is appropriate. The said authorities shall issue their decision in accordance with the laws of their country and the Central Authority of that country shall ensure that the other Party is aware of the action taken.

(3) A Requested Party in control of forfeited proceeds or instrumentalities shall dispose of them according to its laws. Either Party may transfer forfeited assets, or the proceeds of their sale to the other Party, to the extent permitted by their respective laws, upon such terms as may be agreed.

#### ARTICLE 11. COMPATIBILITY WITH OTHER ARRANGEMENTS

Assistance and procedures set forth in this Agreement shall not prevent either of the Parties from granting assistance to the other Party through the provisions of other international agreements to which each may be a party, or through the provisions of their respective laws. The Parties may also provide assistance pursuant to any arrangement, agreement or practice which may be applicable, including, but not limited to, any informal agreement between the law enforcement agencies of the Parties concerning the exchange of information relating to drug trafficking.

#### ARTICLE 12. CONSULTATION

The Central Authorities of the Parties shall consult, at mutually agreed times, to enable the most effective use to be made of this Agreement.

#### ARTICLE 13. NEGOTIATION OF A MUTUAL LEGAL ASSISTANCE TREATY

The Parties agree to enter into negotiations for a Mutual Legal Assistance Treaty concerning criminal matters within nine months after the date on which this Agreement comes into force, with a view to concluding such a Treaty as soon thereafter as their respective constitutional procedures will permit.

#### ARTICLE 14. ENTRY INTO FORCE

This Agreement shall enter into force on the date on which the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland exchange diplomatic notes setting forth their intention to be bound by this Agreement.

#### ARTICLE 15. TERMINATION

Either Party may terminate this Agreement by means of written notice to the other Party through the diplomatic channel. Such termination shall take effect six months following the date of notification.

#### ARTICLE 16. EXPIRATION OF THE AGREEMENT

This Agreement shall expire upon the entry into force of a Mutual Legal Assistance Treaty to be concluded between the Parties.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.  
Done in duplicate at London this 9th day of February 1988.

For the Government of the  
United States of America:

For the Government of the  
United Kingdom of Great Britain  
and Northern Ireland:

**C. Mutual Legal Assistance Treaties Signed by the United States as of October 5, 1994 \***

Country	Signed	Entered Into Force	Citations
<b>Argentina</b> Senate A&C; July 2, 1992, with provisos; U.S. ratification, signed 10/9/92	12/04/90	2/09/93	102d Cong., 1st Sess.; Treaty Doc. 102-18 Ex. Rpt. 102-33
<b>Bahamas</b> Senate A/C; Oct. 24, 1989, with understandings; U.S. ratification, signed 01/02/90	06/12/87 & 08/18/87	07/18/90	100th Cong., 2nd Sess.; Treaty Doc. 100-17 Ex. Rpt. 100-30 Ex. Rpt. 101-12
<b>Belgium</b> Senate A/C; Oct. 24, 1989, with understandings; U.S. ratification, signed 01/02/90	01/28/88	—	100th Cong., 2nd Sess.; Treaty Doc. 100-16 Ex. Rpt. 100-29 Ex. Rpt. 101-11
<b>Canada</b> Senate A/C; Oct. 24, 1989 with understandings; U.S. ratification, signed 01/02/90	03/18/85	01/24/90	100th Cong., 2nd Sess.; Treaty Doc. 100-14 Ex. Rpt. 100-28 Ex. Rpt. 101-10 XXIV ILM, No. 4, 07/85, pp. 1092-1099
<b>Colombia</b> Senate A&C; Dec. 2, 1981 U.S. ratified 01/04/82	08/20/80	—	97th Cong., 1st Sess.; Treaty Doc. 97-11 Ex. Rpt. 97-35
<b>Italy</b> Senate A&C; June 28, 1984 U.S. ratified 08/16/84	11/09/82	11/13/85	98th Cong., 2nd Sess.; Sen. Ex. 98-25 Ex. Rpt. 98-36
<b>Jamaica</b> Senate A&C; July 2, 1992 with provisos; U.S. ratification, signed 10/09/92	07/07/89	—	102d Cong., 1st Sess.; Treaty Doc. 102-16 Ex. Rpt. 102-32

\* Compiled by Office of Treaty Affairs, U.S. Dept. of State, 202-647-1345.



Country	Signed	Entered Into Force	Citations
<b>Mexico</b> Senate A/C; Oct. 24, 1989 with understandings; U.S. ratification, signed 01/02/90	12/09/87	05/03/91	100th Cong., 2nd Sess.; Treaty Doc. 100-13 Ex. Rpt. 100-27 Ex. Rpt. 101-9 XXVII ILM, No. 2, 03/88, p. 447
<b>Morocco</b> Senate A&C; June 28, 1984 U.S. ratified 07/13/84	10/17/83	06/23/93	98th Cong., 2nd Sess.; Sen. Ex. 98-24 Ex. Rpt. 98-35
<b>Netherlands</b> Senate A&C; Dec. 2, 1981 U.S. ratified 01/04/82	06/12/81	09/15/83	TIAS 10734
<b>Nigeria</b>	09/13/89	—	102d Cong., 2nd Sess.; Treaty Doc. 102-26
<b>Panama</b>	04/11/91	—	102d Cong., 1st Sess.; Treaty Doc. 102-15
<b>Spain</b> Senate A&C; July 2, 1992, with provisos; U.S. ratification, signed 10/09/92	11/20/90	06/30/93	102d Cong., 2d Sess.; Treaty Doc. 102-21 Ex. Rpt. 102-35
<b>Switzerland</b> Senate A&C; June 21, 1976 U.S. ratified 07/10/76	05/25/73	01/23/77	TIAS 8302 20 UST 2019
<b>Thailand</b> Senate A/C; Oct. 24, 1989, with understandings; U.S. ratification, signed 01/02/90	03/19/86	06/10/93	100th Cong., 2nd Sess.; Treaty Doc. 100-18 Ex. Rpt. 100-31 Ex. Rpt. 101-13
<b>Turkey</b> Senate A&C; Nov. 28, 1979 U.S. ratified 12/13/79	06/07/79	01/01/81	TIAS 9891
<b>United Kingdom</b> (Cayman Islands) Senate A/C; Oct. 24, 1989, with understandings; U.S. ratification, signed 01/02/90	07/03/86	03/19/90	100th Cong., 1st Sess.; Treaty Doc. 100-8 Ex. Rpt. 100-26 Ex. Rpt. 101-8 XXVI ILM, 3/87, p. 536
<b>United Kingdom</b>	01/06/94	—	

Country	Signed	Entered Into Force	Citations
<b>Uruguay</b> Senate A&C; July 2, 1992, with provisos; U.S. ratification, signed 10/09/92	05/06/91	04/15/94	102d Cong., 1st Sess.; Treaty Doc. 102-16 Ex. Rpt. 102-34
<b>Korea</b>	11/23/93	—	

## D. Customs Mutual Assistance Agreements

YEAR OF SIGNING IN PARENTHESES

DATE OF ENTRY INTO FORCE BELOW

Argentina (1990)* Provisionally upon Signature	Honduras (1992)* Not Yet in Force
Australia (1992)* June 23, 1992	Hungary (1991)* Not Yet in Force
Austria (1976) November 29, 1987	Italy (1985) November 1, 1989
Belgium (1991) May 1, 1993	Korea (1986) March 10, 1987
Canada (1984) January 8, 1985	Mexico (1976) January 26, 1977
Cyprus (1987) August 21, 1987	Norway (1989) August 30, 1989
Czechoslovakia (1991)* Provisionally upon Signature	Poland (1990)* May 15, 1991
Denmark (1991) Not Yet in Force	Russian Federation (1993) December 7, 1993
Finland (1988) July 13, 1989	Spain (1990) February 28, 1993
France (1936 and 1993) E.I.F. December 12, 1936	Sweden (1987) May 8, 1988
New Agreement Signed: December 3, 1993	United Kingdom (1989)* July 6, 1989
Germany (1973) June 13, 1975	U.S.S.R. (1990) Never Came into Force
Greece (1991) January 17, 1993	Yugoslavia (1990) November 18, 1990

\* Contain Asset-Sharing provision

Contact: Office of International Organizations and Agreements,  
U.S. Customs Service  
Telephone: (202) 927-1480  
Fax: (202) 927-6897  
Last Update: October 6, 1994

### E. Treaties of Extradition \*

The United States has entered into bilateral treaties of extradition with the following countries as of October 5, 1994:

Albania	Argentina	Antigua & Barbuda
Australia	Austria	Bahamas
Barbados	Belgium	Belize
Bolivia	Brazil	Bulgaria
Burma	Canada	Chile
Colombia	Congo	Costa Rica
Cuba	Cyprus	Czechoslovakia
Denmark	Dominica	Dominican Republic
Ecuador	Egypt	El Salvador
Estonia	Fiji	Finland
France	Gambia	Germany
Ghana	Greece	Grenada
Guatemala	Guyana	Haiti
Honduras	Hungary	Iceland
India	Iraq	Ireland
Israel	Italy	Jamaica
Japan	Kenya	Kiribati
Latvia	Lesotho	Liberia
Liechtenstein	Lithuania	Luxembourg
Malawi	Malaysia	Malta
Mauritius	Mexico	Monaco
Nauru	Netherlands	New Zealand
Nicaragua	Nigeria	Norway
Pakistan	Panama	New Guinea
Paraguay	Peru	Poland
Portugal	Romania	St. Lucia
San Marino	Seychelles	St. Christopher & Nevis
Sierra Leone	St Vincent & the Grenadines	South Africa
Singapore	Solomon Islands	Surinam
Spain	Sri Lanka	Switzerland
Swaziland	Sweden	Tonga
Tanzania	Thailand	Trinidad & Tobago
Turkey	Tuvalu	Venezuela
United Kingdom	Uruguay	
Yugoslavia	Zambia	

\* Compiled by Office of Treaty Affairs, U.S. Dept. of State, 202-647-1345.

## VIII. MULTILATERAL DECLARATIONS AND AGREEMENTS

### A. United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

*Adopted by the Conference at its 6th plenary meeting, on December 20, 1988; ratification advised by the U.S. Senate on November 21, 1989; entered into force on November 11, 1990*

The Parties to this Convention,

Deeply concerned by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances, which pose a serious threat to the health and welfare of human beings and adversely affect the economic, cultural and political foundations of society,

Deeply concerned also by the steadily increasing inroads into various social groups made by illicit traffic in narcotic drugs and psychotropic substances, and particularly by the fact that children are used in many parts of the world as an illicit drug consumers market and for purposes of illicit production, distribution and trade in narcotic drugs and psychotropic substances, which entails a danger of incalculable gravity,

Recognizing the links between illicit traffic and other related organized criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States,

Recognizing also the illicit traffic is an international criminal activity, the suppression of which demands urgent attention and the highest priority,

Aware that illicit traffic generates large financial profits and wealth enabling transnational criminal organizations to penetrate, contaminate and corrupt the structures of government, legitimate commercial and financial business, and society at all its levels,

Determined to deprive persons engaged in illicit traffic of the proceeds of their criminal activities and thereby eliminate their main incentive for so doing,

Desiring to eliminate the root causes of the problem of abuse of narcotic drugs and psychotropic substances, including the illicit demand for such drugs and substances and the enormous profits derived from illicit traffic,

Considering that measures are necessary to monitor certain substances, including precursors, chemicals and solvents, which are used in the manufacture of narcotic drugs and psychotropic substances, the ready availability of which has led to an increase in the clandestine manufacture of such drugs and substances,

Determined to improve international co-operation in the suppression of illicit traffic by sea,

Recognizing that eradication of illicit traffic is a collective responsibility of all States and that, to that end, coordinated action within the framework of international co-operation is necessary,

Acknowledging the competence of the United Nations in the field of control of narcotic drugs and psychotropic substances and desirous that the international organs concerned with such control should be within the framework of that Organization,

Reaffirming the guiding principles of existing treaties in the field of narcotic drugs and psychotropic substances and the system of control which they embody,

Recognizing the need to reinforce and supplement the measures provided in the Single Convention on Narcotic Drugs, 1961, that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961, and the 1971 Convention on Psychotropic Substances, in order to counter the magnitude and extent of illicit traffic and its grave consequences,

Recognizing also the importance of strengthening and enhancing effective legal means for international co-operation in criminal matters for suppressing the international criminal activities of illicit traffic,

Desiring to conclude a comprehensive, effective and operative international convention that is directed specifically against illicit traffic and that considers the various aspects of the problem as a whole, in particular those aspects not envisaged in the existing treaties in the field of narcotic drugs and psychotropic substances,

Hereby agree as follows:

#### ARTICLE 1—DEFINITIONS

Except where otherwise expressly indicated or where the context otherwise requires, the following definitions shall apply throughout this Convention:

(a) "Board" means the International Narcotics Control Board established by the Single Convention on Narcotic Drugs, 1961, and that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;

(b) "Cannabis plant" means any plant of the genus *Cannabis*;

(c) "Coca bush" means the plant of any species of the genus *Erythroxylon*;

(d) "Commercial carrier" means any person or any public, private or other entity engaged in transporting persons, goods or mails for remuneration, hire or any other benefit;

(e) "Commission" means the Commission on Narcotic Drugs of the Economic and Social Council of the United Nations;

(f) "Confiscation", which includes forfeiture where applicable, means the permanent deprivation of property by order of a court or other competent authority;

(g) "Controlled delivery" means the technique of allowing illicit or suspect consignments of narcotic drugs, psychotropic substances, substances in Table I and Table II annexed to this Convention, or substances substituted for them, to pass out of, through or into the territory of one or more countries, with the knowledge and under the supervision of their competent authorities, with a view to identifying persons involved in the

commission of offences established in accordance with article 3, paragraph 1 of the Convention;

(h) "1961 Convention" means the Single Convention on Narcotic Drugs, 1961;

(i) "1961 Convention as amended" means the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;

(j) "1971 Convention" means the Convention on Psychotropic Substances, 1971;

(k) "Council" means the Economic and Social Council of the United Nations;

(l) "Freezing" or "seizure" means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or a competent authority;

(m) "Illicit traffic" means the offences set forth in article 3, paragraphs 1 and 2, of this Convention;

(n) "Narcotic drug" means any of the substances, natural or synthetic, in Schedules I and II of the Single Convention on Narcotic Drugs, 1961, and that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;

(o) "Opium poppy" means the plant of the species *Papaver somniferum* L;

(p) "Proceeds" means any property derived from or obtained, directly or indirectly, through the commission of an offence established in accordance with article 3, paragraph 1;

(q) "Property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

(r) "Psychotropic substance" means any substance, natural or synthetic, or any natural material in Schedules I, II, III and IV of the Convention on Psychotropic Substances, 1971;

(s) "Secretary-General" means the Secretary-General of the United Nations;

(t) "Table I" and "Table II" means the correspondingly numbered lists of substances annexed to this Convention, as amended from time to time in accordance with article 12;

(u) "Transit State" means a State through the territory of which illicit narcotic drugs, psychotropic substances and substances in Table I and Table II are being moved, which is neither the place of origin nor the place of ultimate destination thereof.

## ARTICLE 2—SCOPE OF THE CONVENTION

1. The purpose of this Convention is to promote co-operation among the Parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances having an international dimension. In carrying out their obligations under the Convention, the Parties shall take necessary measures, including legislative and administrative measures, in conformity with the fundamental provisions of their respective domestic legislative systems.

2. The Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

3. A Party shall not undertake in the territory of another Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other Party by its domestic law.

#### ARTICLE 3—OFFENCES AND SANCTIONS

1. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally:

(a)(i) The productions, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention;

(ii) The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the provisions of the 1961 Convention and the 1961 Convention as amended;

(iii) The possession or purchase of any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in (i) above;

(iv) The manufacture, transport or distribution of equipment, materials or of substances listed in Table I and Table II, knowing that they are to be used in or for the illicit cultivation, production, or manufacture of narcotic drugs or psychotropic substances;

(v) The organization, management or financing of any of the offences enumerated in (i), (ii), (iii) or (iv) above;

(b)(i) The conversion or transfer of property, knowing that such property is derived from any offence or offences established in accordance with subparagraph (a) of this paragraph, or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offence or offences established in accordance with subparagraph (a) of this paragraph or from an act of participation in such an offence or offences;

(c) Subject to its constitutional principles and the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from an offence or offences established in accordance with



subparagraph (a) of this paragraph or from an act of participation in such offence or offences;

(ii) The possession of equipment or materials or substances listed in Table I and Table II, knowing that they are being or are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances;

(iii) Publicly inciting or inducing others, by any means, to commit any of the offences established in accordance with this article or to use narcotic drugs or psychotropic substances illicitly;

(iv) Participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. Subject to its constitutional principles and the basic concepts of its legal system, each Party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention.

3. Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances.

4. (a) Each Party shall make the commission of the offences established in accordance with paragraph 1 of this article liable to sanctions which take into account the grave nature of these offences, such as imprisonment or other form of deprivation of liberty, pecuniary sanctions and confiscation.

(b) The Parties may provide, in addition to conviction or punishment, for an offence established in accordance with paragraph 1 of this article, that the offender shall undergo measures such as treatment, education, aftercare, rehabilitation or social reintegration.

(c) Notwithstanding the preceding subparagraphs, in appropriate cases of a minor nature, the Parties may provide, as alternatives to conviction or punishment, measures such as education, rehabilitation or social reintegration, as well as, when the offender is a drug abuser, treatment and aftercare.

(d) The Parties may provide, either as an alternative to conviction or punishment, or in addition to conviction or punishment of an offence established in accordance with paragraph 2 of this article, measures for the treatment, education, aftercare, rehabilitation or social reintegration of the offender.

5. The Parties shall ensure that their courts and other competent authorities having jurisdiction can take into account factual circumstances which make the commission of the offences established in accordance with paragraph 1 of this article particularly serious, such as:

(a) The involvement in the offence of an organized criminal group to which the offender belongs;

(b) The involvement of the offender in other international organized criminal activities;

(c) The involvement of the offender in other illegal activities facilitated by commission of the offence;

(d) The use of violence or arms by the offender;

(e) The fact that the offender holds a public office and that the offence is connected with the office in question;

(f) The victimization or use of minors;

(g) The fact that the offence is committed in a penal institution or in an educational institution or social service facility or in their immediate vicinity or in other places to which school children and students resort for educational, sports and social activities;

(h) Prior conviction, particularly for similar offences, whether foreign or domestic, to the extent permitted under the domestic law of a Party.

6. The Parties shall endeavour to ensure that any discretionary legal powers under their domestic law relating to the prosecution of persons for offences established in accordance with this article are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

7. The Parties shall ensure that their courts or other competent authorities bear in mind the serious nature of the offences enumerated in paragraph 1 of this article and the circumstances enumerated in paragraph 5 of this article when considering the eventuality of early release or parole of persons convicted of such offences.

8. Each Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with paragraph 1 of this article, and a longer period where the alleged offender has evaded the administration of justice.

9. Each Party shall take appropriate measures, consistent with its legal system, to ensure that a person charged with or convicted of an offence established in accordance with paragraph 1 of this article, who is found within its territory, is present at the necessary criminal proceedings.

10. For the purpose of co-operation among the Parties under this Convention, including, in particular, co-operation under articles 5, 6, 7 and 9, offences established in accordance with this article shall not be considered as fiscal offences or as political offences or regarded as politically motivated, without prejudice to the constitutional limitations and the fundamental domestic law of the Parties.

11. Nothing contained in this article shall affect the principle that the description of the offences to which it refers and of legal defences thereto is reserved to the domestic law of a Party and that such offences shall be prosecuted and punished in conformity with that law.

#### ARTICLE 4—JURISDICTION

##### 1. Each Party:

(a) Shall take such measures, as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when:

(i) The offence is committed in its territory;

(ii) The offence is committed on board a vessel flying its flag or an aircraft which is registered under its laws at the time the offence is committed;

(b) May take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when:

(i) The offence is committed by one of its nationals or by a person who has his habitual residence in its territory;

(ii) The offence is committed on board a vessel concerning which that Party has been authorized to take appropriate action pursuant to article 17, provided that such jurisdiction shall be exercised only on the basis of agreements or arrangements referred to in paragraphs 4 and 9 of that article;

(iii) The offence is one of those established in accordance with article 3, paragraph 1, subparagraph (c)(iv), and is committed outside its territory with a view to the commission, within its territory, of an offence established in accordance with article 3, paragraph 1.

2. Each Party:

(a) Shall also take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when the alleged offender is present in its territory and it does not extradite him to another Party on the ground:

(i) That the offence has been committed in its territory or on board a vessel flying its flag or an aircraft which was registered under its law at the time the offence was committed; or

(ii) That the offence has been committed by one of its nationals;

(b) May also take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when the alleged offender is present in its territory and it does not extradite him to another Party.

3. This Convention does not exclude the exercise of any criminal jurisdiction established by a Party in accordance with its domestic law.

#### ARTICLE 5—CONFISCATION

1. Each Party shall adopt such measures as may be necessary to enable confiscation of:

(a) Proceeds derived from offences established in accordance with article 3, paragraph 1, or property the value of which corresponds to that of such proceeds;

(b) Narcotic drugs and psychotropic substances, materials and equipment or other instrumentalities used in or intended for use in any manner in offences established in accordance with article 3, paragraph 1.

2. Each Party shall also adopt such measures as may be necessary to enable its competent authorities to identify, trace, and freeze or seize proceeds, property, instrumentalities or any other

things referred to in paragraph 1 of this article, for the purpose of eventual confiscation.

3. In order to carry out the measures referred to in this article, each Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. A Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

4. (a) Following a request made pursuant to this article by another Party having jurisdiction over an offence established in accordance with article 3, paragraph 1, the Party in whose territory proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article are situated shall:

(i) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, give effect to it; or

(ii) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by the requesting Party in accordance with paragraph 1 of this article, in so far as it relates to proceeds, property, instrumentalities or any other things referred to in paragraph 1 situated in the territory of the requested Party.

(b) Following a request made pursuant to this article by another Party having jurisdiction over an offence established in accordance with article 3, paragraph 1, the requested Party shall take measures to identify, trace, and freeze or seize proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article for the purpose of eventual confiscation to be ordered either by the requesting Party or, pursuant to a request under subparagraph (a) of this paragraph, by the requested Party.

(c) The decisions or actions provided for in subparagraph (a) and (b) of this paragraph shall be taken by the requested Party, in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting Party.

(d) The provisions of article 7, paragraphs 6 to 19 are applicable *mutatis mutandis*. In addition to the information specified in article 7, paragraph 10, requests made pursuant to this article shall contain the following:

(i) In the case of a request pertaining to subparagraph (a)(i) of this paragraph, a description of the property to be confiscated and a statement of the facts relied upon by the requesting Party sufficient to enable the requested Party to seek the order under its domestic law;

(ii) In the case of a request pertaining to subparagraph (a)(ii), a legally admissible copy of an order of confiscation issued by the requesting Party upon which the request is based, a statement of the facts and information as to the extent to which the execution of the order is requested;

(iii) In the case of a request pertaining to subparagraph (b), a statement of the facts relied upon by the requesting Party and a description of the actions requested.

(e) Each Party shall furnish to the Secretary-General the text of any of its laws and regulations which give effect to this paragraph

and the text of any subsequent changes to such laws and regulations.

(f) If a Party elects to make the taking of the measures referred to in subparagraphs (a) and (b) of this paragraph conditional on the existence of a relevant treaty, that Party shall consider this Convention as the necessary and sufficient treaty basis.

(g) The Parties shall seek to conclude bilateral and multilateral treaties, agreements or arrangements to enhance the effectiveness of international co-operation pursuant to this article.

5. (a) Proceeds or property confiscated by a Party pursuant to paragraph 1 or paragraph 4 of this article shall be disposed of by that Party according to its domestic law and administrative procedures.

(b) Then acting on the request of another Party in accordance with this article, a Party may give special consideration to concluding agreements on:

(i) Contributing the value of such proceeds and property, or funds derived from the sale of such proceeds or property, or a substantial part thereof, to intergovernmental bodies specializing in the fight against illicit traffic in and abuse of narcotic drugs and psychotropic substances;

(ii) Sharing with other Parties, on a regular or case-by-case basis, such proceeds or property, or funds derived from the sale of such proceeds or property, in accordance with its domestic law, administrative procedures or bilateral or multilateral agreements entered into for this purpose.

6. (a) If proceeds have been transformed or converted into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

(b) If proceeds have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to seizure or freezing, be liable to confiscation up to the assessed value of the intermingled proceeds.

(c) Income or other benefits derived from:

(i) Proceeds;

(ii) Property into which proceeds have been transformed or converted; or

(iii) Property with which proceeds have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds.

7. Each Party may consider ensuring that the onus of proof be reversed regarding the lawful origin of alleged proceeds or other property, liable to confiscation, to the extent that such action is consistent with the principles of its domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed as prejudicing the rights of *bona fide* third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a Party.

## ARTICLE 6—EXTRADITION

1. This article shall apply to the offences established by the Parties in accordance with article 3, paragraph 1.

2. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. The Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

3. If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of any offence to which this article applies. The Parties which require detailed legislation in order to use this Convention as a legal basis for extradition shall consider enacting such legislation as may be necessary.

4. The Parties which do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

5. Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds upon which the requested Party may refuse extradition.

6. In considering requests received pursuant to this article, the requested State may refuse to comply with such requests where there are substantial grounds leading its judicial or other competent authorities to believe that compliance would facilitate the prosecution or punishment of any person on account of his race, religion, nationality or political opinions, or would cause prejudice for any of those reasons to any person affected by the request.

7. The Parties shall endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

8. Subject to the provisions of its domestic law and its extradition treaties, the requested Party may, upon being satisfied that the circumstances so warrant and are urgent, and at the request of the requesting Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his presence at extradition proceedings.

9. Without prejudice to the exercise of any criminal jurisdiction established in accordance with its domestic law, a Party in whose territory an alleged offender is found shall:

(a) If it does not extradite him in respect of an offence established in accordance with article 3, paragraph 1, on the grounds set forth in article 4, paragraph 2, subparagraph (a), submit the case to its competent authorities for the purpose of prosecution, unless otherwise agreed with the requesting Party;

(b) If it does not extradite him in respect of such an offence and has established its jurisdiction in relation to that offence in accordance with article 4, paragraph 2, subparagraph (b), submit the case to its competent authorities for the purpose of

prosecution, unless otherwise requested by the requesting Party for the purposes of preserving its legitimate jurisdiction.

10. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested Party, the requested Party shall if its law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence which has been imposed under the law of the requesting Party, or the remainder thereof.

11. The Parties shall seek to conclude bilateral and multilateral agreements to carry out or to enhance the effectiveness of extradition.

12. The Parties may consider entering into bilateral or multilateral agreements, whether *ad hoc* or general, on the transfer to their country of persons sentenced to imprisonment and other forms of deprivation of liberty for offences to which this article applies, in order that they may complete their sentences there.

#### ARTICLE 7—MUTUAL LEGAL ASSISTANCE

1. The Parties shall afford one another, pursuant to this article, the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences established in accordance with article 3, paragraph 1.

2. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;
- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures;
- (d) Examining objects and sites;
- (e) Providing information and evidentiary items;

(f) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records;

(g) Identifying or tracing proceeds, property, instrumentalities or other things for evidentiary purposes.

3. The Parties may afford one another any other forms of mutual legal assistance allowed by the domestic law of the requested Party.

4. Upon request, the Parties shall facilitate or encourage, to the extent consistent with their domestic law and practice, the presence or availability of persons, including persons in custody, who consent to assist in investigations or participate in proceedings.

5. A Party shall not decline to render mutual legal assistance under this article on the ground of bank secrecy.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual legal assistance in criminal matters.

7. Paragraphs 8 to 19 of this article shall apply to requests made pursuant to this article if the Parties in question are not bound by a treaty of mutual legal assistance. If these Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the Parties agree to apply paragraphs 8 to 19 of this article in lieu thereof.

8. Parties shall designate an authority, or when necessary authorities, which shall have the responsibility and power to execute requests for mutual legal assistance or to transmit them to the competent authorities for execution. The authority or the authorities designated for this purpose shall be notified to the Secretary General. Transmission of requests for mutual legal assistance and any communication related thereto shall be effected between the authorities designated by the Parties; this requirement shall be without prejudice to the right of a Party to require that such requests and communications be addressed to it through the diplomatic channel and, in urgent circumstances, where the Parties agree, through channels of the International Criminal Police Organization, if possible.

9. Requests shall be made in writing in a language acceptable to the requested Party. The language or languages acceptable to each Party shall be notified to the Secretary-General. In urgent circumstances, and where agreed by the Parties, requests may be made orally, but shall be confirmed in writing forthwith.

10. A request for mutual legal assistance shall contain:

- (a) The identity of the authority making the request;
- (b) The subject matter and nature of the investigation, prosecution or proceeding to which the request relates, and the name and the functions of the authority conducting such investigation, prosecution or proceeding;

(c) A summary of the relevant facts, except in respect of requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure the requesting Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned;

(f) The purpose for which the evidence, information or action is sought.

11. The requested Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

12. A request shall be executed in accordance with the domestic law of the requested Party and, to the extent not contrary to the domestic law of the requested Party and where possible, in accordance with the procedures specified in the request.

13. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

14. The requesting Party may require that the requested Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.

15. Mutual legal assistance may be refused:

- (a) If the request is not made in conformity with the provisions of this article;



(b) If the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;

(c) If the authorities of the requested Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested Party relating to mutual legal assistance for the request to be granted.

16. Reasons shall be given for any refusal of mutual legal assistance.

17. Mutual legal assistance may be postponed by the requested Party on the ground that it interferes with an ongoing investigation, prosecution or proceeding. In such a case, the requested Party shall consult with the requesting Party to determine if the assistance can still be given subject to such terms and conditions as the requested Part deems necessary.

18. A witness, expert or other person who consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting Party, shall not be prosecuted, detained, punished or subjected to any other restriction of his personal liberty in that territory in respect of acts, omissions or convictions prior to his departure from the territory of the requested Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days, or for any period agreed upon by the Parties, from the date on which he has been officially informed that his presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained, voluntarily in the territory or, having left it, has returned of his own free will.

19. The ordinary costs of executing a request shall be borne by the requested Party, unless otherwise agreed by the Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

20. The Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this article.

#### ARTICLE 8—TRANSFER OF PROCEEDINGS

The Parties shall give consideration to the possibility of transferring to one another proceedings for criminal prosecution of offences established in accordance with article 3, paragraph 1, in cases where such transfer is considered to be in the interests of a proper administration of justice.

## ARTICLE 9—OTHER FORMS OF CO-OPERATION AND TRAINING

1. The Parties shall co-operate closely with one another, consistent with their respective domestic legal and administrative systems, with a view to enhancing the effectiveness of law enforcement action to suppress the commission of offences established in accordance with article 3, paragraph 1. They shall, in particular, on the basis of bilateral or multilateral agreements or arrangements:

(a) Establish and maintain channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences established in accordance with article 3, paragraph 1, including, if the Parties concerned deem it appropriate, links with other criminal activities;

(b) Co-operate with one another in conducting enquiries, with respect to offences established in accordance with article 3, paragraph 1, having an international character, concerning:

(i) The identity, whereabouts and activities of persons suspected of being involved in offences established in accordance with article 3, paragraph 1;

(ii) The movement of proceeds or property derived from the commission of such offences;

(iii) The movement of narcotic drugs, psychotropic substances, substances in Table I and Table II of this Convention and instrumentalities used or intended for use in the commission of such offences;

(c) In appropriate cases and if not contrary to domestic law, establish joint teams, taking into account the need to protect the security of persons and of operations, to carry out the provisions of this paragraph. Officials of any Party taking part in such teams shall act as authorized by the appropriate authorities of the Party in whose territory the operation is to take place; in all such cases, the Parties involved shall ensure that the sovereignty of the Party on whose territory the operation is to take place is fully respected;

(d) Provide, when appropriate, necessary quantities of substances for analytical or investigative purposes;

(e) Facilitate effective coordination between their competent agencies and services and promote the exchange of personnel and other experts, including the posting of liaison officers.

2. Each Party shall, to the extent necessary, initiate, develop or improve a specific training programmes for its law enforcement and other personnel, including customs, charged with the suppression of offences established in accordance with article 3, paragraph 1. Such programmes shall deal, in particular, with the following:

(a) Methods used in the detection and suppression of offences established in accordance with article 3, paragraph 1;

(b) Routes and techniques used by persons suspected of being involved in offences established in accordance with article 3, paragraph 1, particularly in transit States, and appropriate countermeasures;

(c) Monitoring of the import and export of narcotic drugs, psychotropic substances and substances in Table I and Table II;

(d) Detection and monitoring of the movement of proceeds and property derived from, and narcotic drugs, psychotropic substances and substances in Table I and Table II, and instrumentalities used or intended for use in, the commission of offences established in accordance with article 3, paragraph 1;

(e) Methods used for the transfer, concealment or disguise of such proceeds, property and instrumentalities;

(f) Collection of evidence;

(g) Control techniques in free trade zones and free ports;

(h) Modern law enforcement techniques.

3. The Parties shall assist one another to plan and implement research and training programmes designed to share expertise in the areas referred to in paragraph 2 of this article and, to this end, shall also, when appropriate, use regional and international conferences and seminars to promote co-operation and stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

#### ARTICLE 10—INTERNATIONAL CO-OPERATION AND ASSISTANCE FOR TRANSIT STATES

1. The Parties shall co-operate, directly or through competent international or regional organizations, to assist and support transit States and, in particular, developing countries in need of such assistance and support, to the extent possible, through programmes of technical co-operation on interdiction and other related activities.

2. The Parties may undertake, directly or through competent international or regional organizations, to provide financial assistance to such transit States for the purpose of augmenting and strengthening the infrastructure needed for effective control and prevention of illicit traffic.

3. The Parties may conclude bilateral or multilateral agreements or arrangements to enhance the effectiveness of international co-operation pursuant to this article and may take into consideration financial arrangements in this regard.

#### ARTICLE 11—CONTROLLED DELIVERY

1. If permitted by the basic principles of their respective domestic legal systems, the Parties shall take the necessary measures, within their possibilities, to allow for the appropriate use of controlled delivery at the international level, on the basis of agreements or arrangements mutually consented to, with a view to identifying persons involved in offences established in accordance with article 3, paragraph 1, and to taking legal action against them.

2. Decisions to use controlled delivery shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the Parties concerned.

3. Illicit consignments whose controlled delivery is agreed to may, with the consent of the Parties concerned, be intercepted and allowed to continue with the narcotic drugs or psychotropic substances intact or removed or replaced in whole or in part.

**ARTICLE 12—SUBSTANCES FREQUENTLY USED IN THE ILLICIT  
MANUFACTURE OF NARCOTIC DRUGS OR PSYCHOTROPIC SUBSTANCES**

1. The Parties shall take the measures they deem appropriate to prevent diversion of substances in Table I and Table II used for the purpose of illicit manufacture of narcotic drugs or psychotropic substances, and shall co-operate with one another to this end.

2. If a Party or the Board has information which in its opinion may require the inclusion of a substance in Table I or Table II, it shall notify the Secretary-General and furnish him with the information in support of that notification. The procedure described in paragraphs 2 to 7 of this article shall also apply when a Party or the Board has information justifying the deletion of a substance from Table I or Table II, or the transfer of a substance from one Table to the other.

3. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission, and, where notification is made by a Party, to the Board. The Parties shall communicate their comments concerning the notification to the Secretary-General, together with all supplementary information which may assist the Board in establishing an assessment and the Commission in reaching a decision.

4. If the Board, taking into account the extent, importance and diversity of the licit use of the substance, and the possibility and ease of using alternate substances both for licit purposes and for the illicit manufacture of narcotic drugs or psychotropic substances, finds:

(a) That the substance is frequently used in the illicit manufacture of a narcotic drug or psychotropic substance;

(b) That the volume and extent of the illicit manufacture of a narcotic drug or psychotropic substance creates serious public health or social problems, so as to warrant international action,

it shall communicate to the Commission an assessment of the substance, including the likely effect of adding the substance to either Table I or Table II on both licit use and illicit manufacture, together with recommendations of monitoring measures, if any, that would be appropriate in the light of its assessment.

5. The Commission, taking into account the comments submitted by the Parties and the comments and recommendations of the Board, whose assessment shall be determinative as to scientific matters, and also taking into due consideration any other relevant factors, may decide by a two-thirds majority of its members to place a substance in Table I or Table II.

6. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States and other entities which are, or which are entitled to become, Parties to this Convention, and to the Board. Such decision shall become fully effective with respect to each Party one hundred and eighty days after the date of such communication.

7. (a) The decision of the Commission taken under this article shall be subject to review by the Council upon the request of any Party filed within one hundred and eighty days after the date of notification of the decision. The request for review shall be sent to

the Secretary-General, together with all relevant information upon which the request for review is based.

(b) The Secretary-General shall transmit copies of the request for review and the relevant information to the Commission, to the Board and to all the Parties, inviting them to submit their comments within ninety days. All comments received shall be submitted to the Council for consideration.

(c) The Council may confirm or reverse the decision of the Commission. Notification of the Council's decision shall be transmitted to all States and other entities which are, or which are entitled to become, Parties to this Convention, to the Commission and to the Board.

8. (a) Without prejudice to the generality of the provisions contained in paragraph 1 of this article and the provisions of the 1961 Convention, the 1961 Convention as amended and the 1971 Convention, the Parties shall take the measures they deem appropriate to monitor the manufacture and distribution of substances in Table I and Table II which are carried out within their territory.

(b) To this end, the Parties may:

(i) Control all persons and enterprises engaged in the manufacture and distribution of such substances;

(ii) Control under license the establishment and premises in which such manufacture or distribution may take place;

(iii) Require that licensees obtain a permit for conducting the aforesaid operations;

(iv) Prevent the accumulation of such substances in the possession of manufacturers and distributors, in excess of the quantities required for the normal conduct of business and the prevailing market conditions.

9. Each Party shall, with respect to substances in Table I and Table II, take the following measures:

(a) Establish and maintain a system to monitor international trade in substances in Table I and Table II in order to facilitate the identification of suspicious transactions. Such monitoring systems shall be applied in close co-operation with manufacturers, importers, exporters, wholesalers and retailers, who shall inform the competent authorities of suspicious orders and transactions;

(b) Provide for the seizure of any substance in Table I or Table II if there is sufficient evidence that it is for use in the illicit manufacture of a narcotic drug or psychotropic substance;

(c) Notify, as soon as possible, the competent authorities and services of the Parties concerned if there is reason to believe that the import, export or transit of a substance in Table I or Table II is destined for the illicit manufacture of narcotic drugs or psychotropic substances, including in particular information about the means of payment and any other essential elements which led to that belief;

(d) Require that imports and exports be properly labelled and documented. Commercial documents such as invoices, cargo manifests, customs, transport and other shipping documents shall include the names, as stated in Table I or Table II, of the substances being imported or exported, the quantity

being imported or exported, and the name and address of the exporter, the importer and, when available, the consignee;

(e) Ensure that documents referred to in subparagraph (d) of this paragraph are maintained for a period of not less than two years and may be made available for inspection by the competent authorities.

10. (a) In addition to the provisions of paragraph 9, and upon request to the Secretary-General by the interested Party, each Party from whose territory a substance in Table I is to be exported shall ensure that, prior to such export, the following information is supplied by its competent authorities to the competent authorities of the importing country:

(i) Name and address of the exporter and importer and, when available, the consignee;

(ii) Name of the substance in Table I;

(iii) Quantity of the substance to be exported;

(iv) Expected point of entry and expected date of dispatch;

(v) Any other information which is mutually agreed upon by the Parties.

(b) A Party may adopt more strict or severe measures of control than those provided by this paragraph if, in its opinion, such measures are desirable or necessary.

11. Where a Party furnishes information to another Party in accordance with paragraphs 9 and 10 of this article, the Party furnishing such information may require that the Party receiving it keep confidential any trade, business, commercial or professional secret or trade process.

12. Each Party shall furnish annually to the Board, in the form and manner provided for by it and on forms made available by it, information on:

(a) The amounts seized of substances in Table I and Table II and, when known, their origin;

(b) Any substance not included in Table I or Table II which is identified as having been used in illicit manufacture of narcotic drugs or psychotropic substances, and which is deemed by the Party to be sufficiently significant to be brought to the attention of the Board;

(c) Methods of diversion and illicit manufacture.

13. The Board shall report annually to the Commission on the implementation of this article and the Commission shall periodically review the adequacy and propriety of Table I and Table II.

14. The provisions of this article shall not apply to pharmaceutical preparations, nor to other preparations containing substances in Table I or Table II that are compounded in such a way that such substances cannot be easily used or recovered by readily applicable means.

#### ARTICLE 13—MATERIALS AND EQUIPMENT

The Parties shall take such measures as they deem appropriate to prevent trade in and the diversion of materials and equipment for illicit production or manufacture of narcotic drugs and psychotropic substances and shall co-operate to this end.

ARTICLE 14—MEASURES TO ERADICATE ILLICIT CULTIVATION OF NARCOTIC PLANTS AND TO ELIMINATE ILLICIT DEMAND FOR NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

1. Any measures taken pursuant to this Convention by Parties shall not be less stringent than the provisions applicable to the eradication of illicit cultivation of plants containing narcotic and psychotropic substances and to the elimination of illicit demand for narcotic drugs and psychotropic substances under the provisions of the 1961 Convention, the 1961 Convention as amended and the 1971 Convention.

2. Each Party shall take appropriate measures to prevent illicit cultivation of and to eradicate plants containing narcotic or psychotropic substances, such as opium poppy, coca bush and cannabis plants, cultivated illicitly in its territory. The measures adopted shall respect fundamental human rights and shall take due account of traditional licit uses, where there is historic evidence of such use, as well as the protection of the environment.

3. (a) The Parties may co-operate to increase the effectiveness of eradication efforts. Such co-operation may, *inter alia*, include support, when appropriate, for integrated rural development leading to economically viable, alternatives to illicit cultivation. Factors such as access to markets, the availability of resources and prevailing socioeconomic conditions should be taken into account before such rural development programmes are implemented. The Parties may agree on any other appropriate measures of co-operation.

(b) The Parties shall also facilitate the exchange of scientific and technical information and the conduct of research concerning eradication.

(c) Whenever they have common frontiers, the Parties shall seek to co-operate in eradication programmes in their respective areas along those frontiers.

4. The Parties shall adopt appropriate measures aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances, with a view to reducing human suffering and eliminating financial incentives for illicit traffic. These measures may be based, *inter alia*, on the recommendations of the United Nations, specialized agencies of the United Nations such as the World Health Organization, and other competent international organizations, and on the Comprehensive Multidisciplinary Outline adopted by the International Conference on Drug Abuse and Illicit Trafficking, held in 1987, as it pertains to governmental and non-governmental agencies and private efforts in the fields of prevention, treatment and rehabilitation. The Parties may enter into bilateral or multilateral agreements or arrangements aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances.

5. The Parties may also take necessary measures for early destruction or lawful disposal of the narcotic drugs, psychotropic substances and substances in Table I and Table II which have been seized or confiscated and for the admissibility as evidence of duly certified necessary quantities of such substances.

## ARTICLE 15—COMMERCIAL CARRIERS

1. The Parties shall take appropriate measures to ensure that means of transport operated by commercial carriers are not used in the commission of offences established in accordance with article 3, paragraph 1; such measures may include special arrangements with commercial carriers.

2. Each Party shall require commercial carriers to take reasonable precautions to prevent the use of their means of transport for the commission of offences established in accordance with article 3, paragraph 1. Such precautions may include:

(a) If the principal place of business of a commercial carrier is within the territory of the Party:

(i) Training of personnel to identify suspicious consignments or persons;

(ii) Promotion of integrity of personnel;

(b) If a commercial carrier is operating within the territory of the Party:

(i) Submission of cargo manifests in advance, whenever possible;

(ii) Use of tamper-resistant, individually verifiable seals on containers;

(iii) Reporting to the appropriate authorities at the earliest opportunity all suspicious circumstances that may be related to the commission of offences established in accordance with article 3, paragraph 1.

3. Each Party shall seek to ensure that commercial carriers and the appropriate authorities at points of entry and exit and other customs control areas co-operate, with a view to preventing unauthorized access to means of transport and cargo and to implementing appropriate security measures.

## ARTICLE 16—COMMERCIAL DOCUMENTS AND LABELLING OF EXPORTS

1. Each Party shall require that lawful exports of narcotic drugs and psychotropic substances be properly documented. In addition to the requirements for documentation under article 31 of the 1961 Convention, article 31 of the 1961 Convention as amended and article 12 of the 1971 Convention, commercial documents such as invoices, cargo manifests, customs, transport and other shipping documents shall include the names of the narcotic drugs and psychotropic substances being exported as set out in the respective Schedules of the 1961 Convention, the 1961 Convention as amended and the 1971 Convention, the quantity being exported, and the name and address of the exporter, the importer and, when available, the consignee.

2. Each Party shall require that consignments of narcotic drugs and psychotropic substances being exported be not mislabeled.

## ARTICLE 17—ILLICIT TRAFFIC BY SEA

1. The Parties shall co-operate to the fullest extent possible to suppress illicit traffic by sea, in conformity with the international law of the sea.

2. A Party which has reasonable grounds to suspect that a vessel flying its flag or not displaying a flag or marks of registry is en-



gaged in illicit traffic may request the assistance of other Parties in suppressing its use for that purpose. The Parties so requested shall render such assistance within the means available to them.

3. A Party which has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying marks of registry of another Party is engaged in illicit traffic may so notify the flag State, request confirmation of registry and, if confirmed, request authorization from the flag State to take appropriate measures in regard to that vessel.

4. In accordance with paragraph 3 or in accordance with treaties in force between them or in accordance with any agreement or arrangement otherwise reached between those Parties, the flag State may authorize the requesting State to, *inter alia*:

- (a) Board the vessel;
- (b) Search the vessel;
- (c) If evidence of involvement in illicit traffic is found, take appropriate action with respect to the vessel, persons and cargo on board.

5. Where action is taken pursuant to this article, the Parties concerned shall take due account of the need not to endanger the safety of life at sea, the security of the vessel and the cargo or to prejudice the commercial and legal interests of the flag State or any other interested State.

6. The flag State may, consistent with its obligations in paragraph 1 of this article, subject its authorization to conditions to be mutually agreed between it and the requesting Party, including conditions relating to responsibility.

7. For the purposes of paragraphs 3 and 4 of this article, a Party shall respond expeditiously to a request from another Party to determine whether a vessel that is flying its flag is entitled to do so, and to requests for authorization made pursuant to paragraph 3. At the time of becoming a Party to this Convention, each Party shall designate an authority or, when necessary, authorities to receive and respond to such requests. Such designation shall be notified through the Secretary-General to all other Parties within one month of the designation.

8. A Party which has taken any action in accordance with this article shall promptly inform the flag State concerned of the results of that action.

9. The Parties shall consider entering into bilateral or regional agreements or arrangements to carry out, or to enhance the effectiveness of, the provisions of this article.

10. Action pursuant to paragraph 4 of this article shall be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

11. Any action taken in accordance with this article shall take due account of the need not to interfere with or affect the rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea.

## ARTICLE 18—FREE TRADE ZONES AND FREE PORTS

1. The Parties shall apply measures to suppress illicit traffic in narcotic drugs, psychotropic substances and substances in Table I and Table II in free trade zones and in free ports that are no less stringent than those applied in other parts of their territories.

2. The Parties shall endeavour:

(a) To monitor the movement of goods and persons in free trade zones and free ports, and, to that end, shall empower the competent authorities to search cargoes and incoming and outgoing vessels, including pleasure craft and fishing vessels, as well as aircraft and vehicles and, when appropriate, to search crew members, passengers and their baggage;

(b) To establish and maintain a system to detect consignments suspected of containing narcotic drugs, psychotropic substances and substances in Table I and Table II passing into or out of free trade zones and free ports;

(c) To establish and maintain surveillance systems in harbour and dock areas and at airports and border control points in free trade zones and free ports.

## ARTICLE 19—THE USE OF THE MAILS

1. In conformity with their obligations under the Conventions of the Universal Postal Union, and in accordance with the basic principles of their domestic legal systems, the Parties shall adopt measures to suppress the use of the mails for illicit traffic and shall co-operate with one another to that end.

2. The measures referred to in paragraph 1 of this article shall include, in particular:

(a) Coordinated action for the prevention and repression of the use of the mails for illicit traffic;

(b) Introduction and maintenance by authorized law enforcement personnel of investigative and control techniques designed to detect illicit consignments of narcotic drugs, psychotropic substances and substances in Table I and Table II in the mails;

(c) Legislative measures to enable the use of appropriate means to secure evidence required for judicial proceedings.

## ARTICLE 20—INFORMATION TO BE FURNISHED BY THE PARTIES

1. The Parties shall furnish, through the Secretary-General, information to the Commission on the working of this Convention in their territories and, in particular:

(a) The text of laws and regulations promulgated in order to give effect to the Convention;

(b) Particulars of cases of illicit traffic within their jurisdiction which they consider important because of new trends disclosed, the quantities involved, the sources from which the substances are obtained, or the methods employed by persons so engaged.

2. The Parties shall furnish such information in such a manner and by such dates as the Commission may request.

## ARTICLE 21—FUNCTIONS OF THE COMMISSION

The Commission is authorized to consider all matters pertaining to the aims of this Convention and, in particular:

(a) The Commission shall, on the basis of the information submitted by the Parties in accordance with article 20, review the operation of this Convention;

(b) The Commission may make suggestions and general recommendations based on the examination of the information received from the Parties;

(c) The Commission may call the attention of the Board to any matters which may be relevant to the functions of the Board;

(d) The Commission shall, on any matter referred to it by the Board under article 22, paragraph 1(b), take such action as it deems appropriate;

(e) The Commission may, in conformity with the procedures laid down in article 12, amend Table I and Table II;

(f) The Commission may draw the attention of non-Parties to decisions and recommendations which it adopts under this Convention, with a view to their considering taking action in accordance therewith.

## ARTICLE 22—FUNCTIONS OF THE BOARD

1. Without prejudice to the functions of the Commission under article 21, and without prejudice to the functions of the Board and the Commission under the 1961 Convention, the 1961 Convention as amended and the 1971 Convention:

(a) If, on the basis of its examination of information available to it, to the Secretary-General or to the Commission, or of information communicated by United Nations organs, the Board has reason to believe that the aims of this Convention in matters related to its competence are not being met, the Board may invite a Party or Parties to furnish any relevant information;

(b) With respect to articles 12, 13 and 15:

(i) After taking action under subparagraph (a) of this article, the Board, if satisfied that it is necessary to do so, may call upon the Party concerned to adopt such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of articles 12, 13 and 16;

(ii) Prior to taking action under (iii) below, the Board shall treat as confidential its communications with the Party concerned under the preceding subparagraphs;

(iii) If the Board finds that the Party concerned has not taken remedial measures which it has been called upon to take under this subparagraph, it may call the attention of the Parties, the Council and the Commission to the matter. Any report published by the Board under this subparagraph shall also contain the views of the Party concerned if the latter so requests.

2. Any Party shall be invited to be represented at a meeting of the Board at which a question of direct interest to it is to be considered under this article.

3. If in any case a decision of the Board which is adopted under this article is not unanimous, the views of the minority shall be stated.

4. Decisions of the Board under this article shall be taken by a two-thirds majority of the whole number of the Board.

5. In carrying out its functions pursuant to subparagraph 1(a) of this article, the Board shall ensure the confidentiality of all information which may come into its possession.

6. The Board's responsibility under this article shall not apply to the implementation of treaties or agreements entered into between Parties in accordance with the provisions of this Convention.

7. The provisions of this article shall not be applicable to disputes between Parties falling under the provisions of article 32.

#### ARTICLE 23—REPORTS OF THE BOARD

1. The Board shall prepare an annual report on its work containing an analysis of the information at its disposal and, in appropriate cases, an account of the explanations, if any, given by or required of Parties, together with any observations and recommendations which the Board desires to make. The Board may make such additional reports as it considers necessary. The reports shall be submitted to the Council through the Commission which may make such comments as it sees fit.

2. The reports of the Board shall be communicated to the Parties and subsequently published by the Secretary-General. The Parties shall permit their unrestricted distribution.

#### ARTICLE 24—APPLICATION OF STRICTER MEASURES THAN THOSE REQUIRED BY THIS CONVENTION

A Party may adopt more strict or severe measures than those provided by this Convention if, in its opinion, such measures are desirable or necessary for the prevention or suppression of illicit traffic.

#### ARTICLE 25—NON-DEROGATION FROM EARLIER TREATY RIGHTS AND OBLIGATIONS

The provisions of this Convention shall not derogate from any rights enjoyed or obligations undertaken by Parties to this Convention under the 1961 Convention, the 1961 Convention as amended and the 1971 Convention.

#### ARTICLE 26—SIGNATURE

This Convention shall be open for signature at the United Nations Office at Vienna, from 20 December 1988 to 28 February 1989, and thereafter at the Headquarters of the United Nations at New York, until 20 December 1989, by:

(a) All States;

(b) Namibia, represented by the United Nations Council for Namibia;

(c) Regional economic integration organizations which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention, references under the Convention to Parties, States or national services being applicable to these organizations within the limits of their competence.

#### ARTICLE 27—RATIFICATION, ACCEPTANCE, APPROVAL OR ACT OF FORMAL CONFIRMATION

1. This Convention is subject to ratification, acceptance or approval by States and by Namibia, represented by the United Nations Council for Namibia, and to acts of formal confirmation by regional economic integration organizations referred to in article 26, subparagraph (c). The instruments of ratification, acceptance or approval and those relating to acts of formal confirmation shall be deposited with the Secretary-General.

2. In their instruments of formal confirmation, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Secretary-General of any modification in the extent of their competence with respect to the matters governed by the Convention.

#### ARTICLE 28—ACCESSION

1. This Convention shall remain open for accession by any State, by Namibia, represented by the United Nations Council for Namibia, and by regional economic integration organizations referred to in article 26, subparagraph (c). Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.

2. In their instruments of accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Secretary-General of any modification in the extent of their competence with respect to the matters governed by the Convention.

#### ARTICLE 29—ENTRY INTO FORCE

1. This Convention shall enter into force on the ninetieth day after the date of the deposit with the Secretary-General of the twentieth instrument of ratification, acceptance, approval or accession by States or by Namibia, represented by the Council for Namibia.

2. For each State or for Namibia, represented by the Council for Namibia, ratifying, accepting, approving or acceding to this Convention after the deposit of the twentieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

3. For each regional economic integration organization referred to in article 26, subparagraph (c) depositing an instrument relating to an act of formal confirmation or an instrument of accession, this Convention shall enter into force on the ninetieth day after such

deposit, or at the date the Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

#### ARTICLE 30—DENUNCIATION

1. A Party may denounce this Convention at any time by a written notification addressed to the Secretary-General.

2. Such denunciation shall take effect for the Party concerned one year after the date of receipt of the notification by the Secretary-General.

#### ARTICLE 31—AMENDMENTS

1. Any Party may propose an amendment to this Convention. The text of any such amendment and the reasons therefor shall be communicated by that Party to the Secretary-General, who shall communicate it to the other Parties and shall ask them whether they accept the proposed amendment. If a proposed amendment so circulated has not been rejected by any Party within twenty-four months after it has been circulated, it shall be deemed to have been accepted and shall enter into force in respect of a Party ninety days after that Party has deposited with the Secretary-General an instrument expressing its consent to be bound by that amendment.

2. If a proposed amendment has been rejected by any Party, the Secretary-General shall consult with the Parties and, if a majority so requests, he shall bring the matter, together with any comments made by the Parties, before the Council which may decide to call a conference in accordance with Article 62, paragraph 4, of the Charter of the United Nations. Any amendment resulting from such a conference shall be embodied in a Protocol of Amendment. Consent to be bound by such a Protocol shall be required to be expressed specifically to the Secretary-General.

#### ARTICLE 32—SETTLEMENT OF DISPUTES

1. If there should arise between two or more Parties a dispute relating to the interpretation or application of this Convention, the Parties shall consult together with a view to settlement of the dispute by negotiation, enquiry, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their own choice.

2. Any such dispute which cannot be settled in the manner prescribed in paragraph 1 of this article shall be referred, at the request of any one of the States Parties to the dispute, to the International Court of Justice for decision.

3. If a regional economic integration organization referred to in article 26, subparagraph (c) is a Party to a dispute which cannot be settled in the manner prescribed in paragraph 1 of this article, it may, through a State Member of the United Nations, request the Council to request an advisory opinion of the International Court of Justice in accordance with Article 65 of the Statute of the Court, which opinion shall be regarded as decisive.

4. Each State, at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, or each regional economic integration organization, at the time of a signature or deposit of an act of formal confirmation or accession, may de-

clare that it does not consider itself bound by paragraphs 2 and 3 of this article. The other Parties shall not be bound by paragraphs 2 and 3 with respect to any Party having made such a declaration.

5. Any Party having made a declaration in accordance with paragraph 4 of this article may at any time withdraw the declaration by notification to the Secretary-General.

#### ARTICLE 33—AUTHENTIC TEXTS

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention are equally authentic.

#### ARTICLE 34—DEPOSITARY

The Secretary-General shall be the depositary of this Convention.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE AT VIENNA, in one original, this twentieth day of December, one thousand nine hundred and eighty-eight.

### ANNEX

*Table I*

Ephedrine  
Ergometrine  
Ergotamine  
Lysergic acid  
1-phenyl-2-propanone  
Pseudoephedrine

The salts of the substances listed in this Table whenever the existence of such salts is possible.

*Table II*

Acetic anhydride  
Acetone  
Anthranilic acid  
Ethyl ether  
Phenylacetic acid  
Piperidine

The salts of the substances listed in this Table whenever the existence of such salts is possible.

## B. Convention on Psychotropic Substances, 1972

### MULTILATERAL

#### NARCOTIC DRUGS: PSYCHOTROPIC SUBSTANCES

*Convention done at Vienna February 21, 1971, as rectified by the procès-verbal of August 15, 1973; Ratification advised by the Senate of the United States of America, subject to a reservation, March 20, 1980; Ratified by the President of the United States of America, subject to said reservation, April 7, 1980; Ratification of the United States of America deposited with the Secretary-General of the United Nations April 16, 1980; Proclaimed by the President of the United States of America May 12, 1980; Entered into force with respect to the United States of America July 15, 1980.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

#### A PROCLAMATION

#### CONSIDERING THAT:

The Convention on Psychotropic Substances was signed on behalf of the United States of America at Vienna on February 21, 1971, the text of which is hereto annexed;

The Senate of the United States of America by its resolution of March 20, 1980, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention, subject to a reservation as follows:

That in accord with paragraph 4 of Article 32 of the Convention, peyote harvested and distributed for use by the Native American Church in its religious rites is excepted from the provisions of Article 7 of the Convention of Psychotropic Substances.

The President of the United States of America on April 7, 1980, ratified the Convention, subject to the said reservation, in pursuance of the advice and consent of the Senate, and the United States of America deposited its instrument of ratification with the Secretary General of the United Nations on April 16, 1980;

Pursuant to the provisions of the Convention, the Convention, subject to the said reservation, enters into force for the United States of America on July 15, 1980.

Now, therefore, I, Jimmy Carter, President of the United States of America, proclaim and make public the Convention, subject to the said reservation, to the end that it shall be observed and fulfilled with good faith on and after July 15, 1980, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

In testimony whereof, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twelfth day of May in the year of our Lord one thousand nine hundred eighty and



[SEAL] of the Independence of the United States of America the two hundred fourth.

By the President: JIMMY CARTER

EDMUND S. MUSKIE

Secretary of State

## CONVENTION ON PSYCHOTROPIC SUBSTANCES

### PREAMBLE

*The Parties,*

*Being concerned with the health and welfare of mankind,*

*Noting with concern the public health and social problems resulting from the abuse of certain psychotropic substances,*

*Determined to prevent and combat abuse of such substances and the illicit traffic to which it gives rise,*

*Considering that rigorous measures are necessary to restrict the use of such substances to legitimate purposes,*

*Recognizing that the use of psychotropic substances for medical and scientific purposes is indispensable and that their availability for such purposes should not be unduly restricted,*

*Believing that effective measures against abuse of such substances require co-ordination and universal action,*

*Acknowledging the competence of the United Nations in the field of control of psychotropic substances and desirous that the international organs concerned should be within the framework of that Organization,*

*Recognizing that an international convention is necessary to achieve these purposes,*

*Agree as follows:*

### ARTICLE 1

#### USE OF TERMS

Except where otherwise expressly indicated or where the context otherwise requires, the following terms in this Convention have the meanings given below,

(a) "Council" means the Economic and Social Council of the United Nations.

(b) "Commission" means the Commission on Narcotic Drugs of the Council.

(c) "Board" means the International Narcotics Control Board provided for in the Single Convention on Narcotic Drugs, 1961.<sup>1</sup>

(d) "Secretary-General" means the Secretary-General of the United Nations.

(e) "Psychotropic substance" means any substance, natural or synthetic, or any natural material in Schedule 1, II, III or IV.

(f) "Preparation" means:

(i) any solution or mixture, in whatever physical state, containing one or more psychotropic substances, or

(ii) one or more psychotropic substances in dosage form.

<sup>1</sup>TIAS 6298, 6423, 9648, 6795, 7223, 7817, 7945, 8118; 18 UST 1407, 3279; 19 UST 4668; 20 UST 4064; 22 UST 1808; 25 UDT 651, 2772, 26 UST 1439. [Footnote added by the Department of State.]

(g) "Schedule I", "Schedule II", "Schedule III" and "Schedule IV" mean the correspondingly numbered lists of psychotropic substances annexed to this Convention, as altered in accordance with article 2.

(h) "Export- and "import" mean in their respective connotations the physical transfer of a psychotropic substance from one State to another State.

(i) "Manufacture" means all processes by which psychotropic substances may be obtained, and includes refining as well as the transformation of psychotropic substances into other psychotropic substances. The term also includes the making of preparations other than those made on prescription in pharmacies.

(j) "Illicit traffic" means manufacture of or trafficking in psychotropic substances contrary to the provisions of this Convention.

(k) "Region" means any part of a State which pursuant to article 28 is treated as a separate entity for the purposes of this Convention.

(l) "Premises" means buildings or parts of buildings, including the appertaining land.

## ARTICLE 2

### SCOPE OF CONTROL OF SUBSTANCES

1. If a Party or the World Health Organization has information relating to a substance not yet under international control which in its opinion may require the addition of that substance to any of the Schedules of this Convention, it shall notify the Secretary General and furnish him with the information in support of that notification. The foregoing procedure shall also apply when a Party or the World Health Organization has information justifying the transfer of a substance from one Schedule to another among those Schedules, or the deletion of a substance from the Schedules.

2. The Secretary General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission and, when the notification is made by a Party, to the World Health Organization.

3. If the information transmitted with such a notification indicates that the substance is suitable for inclusion in Schedule I or Schedule II pursuant to paragraph 4, the Parties shall examine, in the light of all information available to them, the possibility of the provisional application to the substance of all measures of control applicable to substances in Schedule I or Schedule II, as appropriate.

4. If the World Health Organization finds:

(a) that the substance has the capacity to produce

(i) (1) a state of dependence, and

(2) central nervous system stimulation or depression, resulting in hallucinations or disturbances in motor function or thinking or behaviour or perception or mood, or

(ii) similar abuse and similar ill effects as a substance in Schedule I, II, III or IV, and

(b) that there is sufficient evidence that the substance is being or is likely to be abused so as to constitute a public

health and social problem warranting the placing of the substance under international control, the World Health Organization shall communicate to the Commission an assessment of the substance, including the extent or likelihood of abuse, the degree of seriousness of the public, health and social problem and the degree of usefulness of the substance in medical therapy, together with recommendations on control measures, if any, that would be appropriate in the light of its assessment.

5. The Commission, taking into account the communication from the World Health Organization, whose assessments shall be determinative as to medical and scientific matters, and bearing in mind the economic, social, legal, administrative and other factors it may consider relevant, may add the substance to Schedule I, II, III or IV. The Commission may seek further information from the World Health Organization or from other appropriate sources.

6. If a notification under paragraph 1 relates to a substance already listed in one of the Schedules, the World Health Organization shall communicate to the Commission its new findings, any new assessment of the substance it may make in accordance with paragraph 4 and any new recommendations on control measures it may find appropriate in the light of that assessment. The Commission, taking into account the communication from the World Health Organization as under paragraph 5 and bearing in mind the factors referred to in that paragraph, may decide to transfer the substance from one Schedule to another or to delete it from the Schedules.

7. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States Members of the United Nations, to non-member States Parties to this Convention, to the World Health Organization and to the Board. Such decision shall become fully effective with respect to each Party 180 days after the date of such communication, except for any Party which, within that period, in respect of a decision adding a substance to a Schedule, has transmitted to the Secretary-General a written notice that, in view of exceptional circumstances, it is not in a position to give effect with respect to that substance to all of the provisions of the Convention applicable to substances in that Schedule. Such notice shall state the reasons for this exceptional action. Notwithstanding its notice, each Party shall apply, as a minimum, the control measures listed below:

(a) A Party having given such notice with respect to a previously uncontrolled substance added to Schedule I shall take into account, as far as possible, the special control measures enumerated in article 7 and, with respect to that substance, shall:

- (i) require licences for manufacture, trade and distribution as provided in article 8 for substances in Schedule II;
- (ii) require medical prescriptions for supply or dispensing as provided in article 9 for substances in Schedule II;
- (iii) comply with the obligations relating to export and import provided in article 12, except in respect to another Party having given such notice for the substance in question;

(iv) comply with the obligations provided in article 13 for substances in Schedule II in regard to prohibition of and restrictions on export and import;

(v) furnish statistical reports to the Board in accordance with paragraph 4 (a) of article 16; and

(vi) adopt measures in accordance with article 22 for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.

(b) A Party having given such notice with regard to a previously uncontrolled substance added to Schedule II shall, with respect to that substance:

(i) require licences for manufacture, trade and distribution in accordance with article 8;

(ii) require medical prescriptions for supply or dispensing in accordance with article 9;

(iii) comply with the obligations relating to export and import provided in article 12, except in respect to another Party having given such notice for the substance in question;

(iv) comply with the obligations of article 13 in regard to prohibition of and restrictions on export and import;

(v) furnish statistical reports to the Board in accordance with paragraphs 4 (a), (c) and (d) of article 16; and

(vi) adopt measures in accordance with article 22 for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.

(c) A Party having given such notice with regard to a previously uncontrolled substance added to Schedule III shall, with respect to that substance:

(i) require licences for manufacture, trade and distribution in accordance with article 8;

(ii) require medical prescriptions for supply or dispensing in accordance with article 9;

(iii) comply with the obligations relating to export provided in article 12, except in respect to another Party having given such notice for the substance in question;

(iv) comply with the obligations of article 13 in regard to prohibition of and restrictions on export and import; and

(v) adopt measures in accordance with article 22 for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.

(d) A Party having given such notice with regard to a previously uncontrolled substance added to Schedule IV shall, with respect to that substance:

(i) require licences for manufacture, trade and distribution in accordance with article 8;

(ii) comply with the obligations of article 13 in regard to prohibition of and restrictions on export and import; and

(iii) adopt measures in accordance with article 22 for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.

(e) A Party having given such notice with regard to a substance transferred to a Schedule providing stricter controls and obligations shall apply as a minimum all of the provisions of

this Convention applicable to the Schedule from which it was transferred.

8. (a) The decisions of the Commission taken under this article shall be subject to review by the Council upon the request of any Party filed within 180 days from receipt of notification of the decision. The request for review shall be sent to the Secretary-General together with all relevant information upon which the request for review is based.

(b) The Secretary-General shall transmit copies of the request for review and the relevant information to the Commission, to the World Health Organization and to all the Parties, inviting them to submit comments within ninety days. All comments received shall be submitted to the Council for consideration.

(c) The Council may confirm, alter or reverse the decision of the Commission. Notification of the Council's decision shall be transmitted to all States Members of the United Nations, to non-member States Parties to this Convention, to the Commission, to the World Health Organization and to the Board.

(d) During pendency of the review, the original decision of the Commission shall, subject to paragraph 7, remain in effect.

9. The Parties shall use their best endeavours to apply to substances which do not fall under this Convention, but which may be used in the illicit manufacture of psychotropic substances, such measures of supervision as may be practicable.

### ARTICLE 3

#### SPECIAL PROVISIONS REGARDING THE CONTROL OF PREPARATIONS

1. Except as provided in the following paragraphs of this article, a preparation is subject to the same measures of control as the psychotropic substance which it contains, and, if it contains more than one such substance, to the measures applicable to the most controlled of those substances.

2. If a preparation containing a psychotropic substance other than a substance in Schedule I is compounded in such a way that it presents no, or a negligible, risk of abuse and the substance cannot be recovered by readily applicable means in a quantity liable to abuse, so that the preparation does not give rise to a public health and social problem, the preparation may be exempted from certain of the measures of control provided in this Convention in accordance with paragraph 3.

3. If a Party makes a finding under the preceding paragraph regarding a preparation, it may decide to exempt the preparation, in its country or in one of its regions, from any or all of the measures of control provided in this Convention except the requirements of:

- (a) article 8 (licenses), as it applies to manufacture;
- (b) article 11 (records), as it applies to exempt preparation;
- (c) article 13 (prohibition of and restrictions on export and import);
- (d) article 15 (inspection), as it applies to manufacture;
- (e) article 16 (reports to be furnished by the Parties), as it applies to exempt preparation; and

(f) article 22 (penal provisions), to the extent necessary for the repression of acts contrary to laws or regulations adopted pursuant to the foregoing obligations.

A Party shall notify the Secretary-General of any such decision, of the name and composition of the exempt preparation, and of the measures of control from which it is exempted. The Secretary-General shall transmit the notification to the other Parties, to the World Health Organization and to the Board.

4. If a Party or the World Health Organization has information regarding a preparation exempted pursuant to paragraph 3 which in its opinion may require the termination, in whole or in part, of the exemption, it shall notify the Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission and, when the notification is made by a Party, to the World Health Organization. The World Health Organization shall communicate to the Commission an assessment of the preparation in relation to the matters specified in paragraph 2, together with a recommendation of the control measures, if any, from which the preparation should cease to be exempted. The Commission, taking into account the communication from the World Health Organization, whose assessment shall be determinative as to medical and scientific matters, and bearing in mind the economic, social, legal, administrative and other factors it may consider relevant, may decide to terminate the exemption of the preparation from any or all control measures. Any decision of the Commission taken pursuant to this paragraph shall be communicated by the Secretary-General to all States Members of the United Nations, to non-member States Parties to this Convention, to the World Health Organization and to the Board. All Parties shall take measures to terminate the exemption from the control measure or measures in question within 180 days of the date of the Secretary-General's communication.

#### ARTICLE 4

##### OTHER SPECIAL PROVISIONS REGARDING THE SCOPE OF CONTROL

In respect of psychotropic substances other than those in Schedule I, the Parties may permit:

(a) the carrying by international travellers of small quantities of preparations for personal use; each Party shall be entitled, however, to satisfy itself that these preparations have been lawfully obtained;

(b) the use of such substances in industry for the manufacture of non-psychotropic substances or products, subject to the application of the measures of control required by this Convention until the psychotropic substances come to be in such a condition that they will not in practice be abused or recovered;

(c) the use of such substances, subject to the application of the measures of control required by this Convention, for the capture of animals by persons specifically authorized by the competent authorities to use such substances for that purposes.

## ARTICLE 5

## LIMITATION OF USE TO MEDICAL AND SCIENTIFIC PURPOSES

1. Each Party shall limit the use of substances in Schedule I as provided in article 7.

2. Each Party shall, except as provided in article 4, limit by such measures as it considers appropriate the manufacture, export, import, distribution and stocks of, trade in, and use and possession of, substances in Schedule II, III and IV to medical and scientific purposes.

3. It is desirable that the Parties do not permit the possession of substances in Schedule II, III, and IV except under legal authority.

## ARTICLE 6

## SPECIAL ADMINISTRATION

It is desirable that for the purpose of applying the provisions of this Convention, each Party establish and maintain a special administration, which may with advantage be the same as, or work in close co-operation with, the special administration established pursuant to the provisions of conventions for the control of narcotic drugs.

## ARTICLE 7

## SPECIAL PROVISIONS REGARDING SUBSTANCES IN SCHEDULE I

In respect of substances in Schedule I, the Parties shall:

(a) prohibit all use except for scientific and very limited medical purpose by duly authorized persons, in medical or scientific establishments which are directly under the control of their Governments or specifically approved by them;

(b) require that manufacture, trade, distribution and possession be under a special licence or prior authorization;

(c) provide for close supervision of the activities and acts mentioned in paragraph (a) and (b);

(d) restrict the amount supplied to a duly authorized person to the quantity required for his authorized purpose;

(e) require that persons performing medical or scientific functions keep records concerning the acquisition of the substances and the details of their use, such records to be preserved for at least two years after the last use recorded therein; and

(f) prohibit export and import except when both the exporter and importer are the competent authorities or agencies of the exporting and importing country or region, respectively, or other persons or enterprises which are specifically authorized by the competent authorities of their country or region for the purpose. The requirements of paragraph 1 of article 12 for export and import authorizations for substances in Schedule II shall also apply to substances in Schedule I.

## ARTICLE 8

## LICENCES

1. The Parties shall require that the manufacture of, trade (including export and import trade) in, and distribution of substances listed in Schedule II, III and IV be under licence or other similar control measure.

2. The Parties shall:

(a) control all duly authorized person and enterprises carrying on or engaged in the manufacture of, trade (including export and import trade) in, or distribution of substances referred to in paragraph 1;

(b) control under licence or other similar control measures the establishments and premises in which such manufacture, trade or distribution may take place; and

(c) provide that security measures be taken with regard to such establishments and premises in order to prevent theft or other diversion of stocks.

3. The provisions of paragraph 1 and 2 of this article relating to licensing or other similar control measures need not apply to persons duly authorized to perform and while performing therapeutic or scientific functions.

4. The Parties shall require that all persons who obtain licences in accordance with this Convention or who are otherwise authorized pursuant to paragraph 1 of this article or sub-paragraph (b) or article 7 shall be adequately qualified for the effective and faithful execution of the provision of such laws and regulations as are enacted in pursuance of this Convention.

## ARTICLE 9

## PRESCRIPTIONS

1. The Parties shall require that substances in Schedule II, III and IV be supplied or dispensed for use by individuals pursuant to medical prescription only, except when individuals may lawfully obtain, use, dispense or administer such substances in the duly authorized exercise of therapeutic or scientific functions.

2. The Parties shall take measures to ensure that prescriptions for substances in Schedule II, III and IV are issued in accordance with sound medical practice and subject to such regulations, particularly as to the number of times they may be refilled and the duration of their validity, as will protect the public health and welfare.

3. Notwithstanding paragraph 1, a Party may, if in its opinion local circumstances so required and under such conditions, including record-keeping, as it may prescribe, authorize licensed pharmacists or other licensed retail distributors designated by the authorities responsible for public health in its country or part thereof to supply, at their discretion and without prescription, for use for medical purposes by individuals in exceptional cases, small quantities, within limits to be defined by the Parties, of substances in Schedule III and IV.



## ARTICLE 10

## WARNING ON PACKAGES, AND ADVERTISING

1. Each Party shall require taking into account any relevant regulations or recommendations of the World Health Organization, such directions for use, including cautions and warnings, to be indicated on the labels where practicable and in any cases on the accompanying leaflet of retail packages of psychotropic substances, as in its opinion are necessary for the safety of the user.

2. Each Party shall, with due regard to its constitutional provisions, prohibit the advertisement of such substances to the general public.

## ARTICLE 11

## RECORDS

1. The Parties shall require that, in respect of substances in Schedule I, manufacturers and all other persons authorized under article 7 to trade in and distribute those substances keep records, as may be determined by each Party, showing details of the quantities manufactured, the quantities held in stock, and, for each acquisition and disposal, details of the quantity, date, supplier and recipient.

2. The Parties shall require that, in respect of substances in Schedule II and III, manufactures, wholesale distributors, exporters and importers keep records, as may be determined by each Party, showing details of the quantities manufactured and, for each acquisition and disposal, details of the quantity, date, supplier and recipient.

3. The Parties shall require that, in respect of substances in Schedule II, retail distributors, institutions for hospitalization and care and scientific institutions keep records, as may be determined by each Party, showing, for each acquisition and disposal, details of the quantity, date, supplier and recipient.

4. The Parties shall ensure, through appropriate methods and taking into account the professional and trade practices in their countries, that information regarding acquisition and disposal of substances in Schedule III by retail distributors, institutions for hospitalization and care and scientific institutions is readily available.

5. The Parties shall require that, in respect of substances in Schedule IV, manufacturers, exporters and importers keep records, as may be determined by each Party, showing the quantities manufactured, exported and imported.

6. The Parties shall require manufacturers of preparations exempted under paragraph 3 of article 3 to keep records as to the quantity of each psychotropic substance used in the manufacture of an exempt preparation manufactured therefrom.

7. The Parties shall ensure that the records and information referred to in this article which are required for purposes of reports under article 16 shall be preserved for at least two years.

## ARTICLE 12

## PROVISIONS RELATING TO INTERNATIONAL TRADE

1. (a) Every Party permitting the export or import of substances in Schedule I or II shall require a separate import or export authorization, on a form to be established by the Commission, to be obtained for each such export or import whether it consists of one or more substances.

(b) Such authorization shall state the international non-proprietary name, or lacking such a name, the designated of the substance in the Schedule, the quantity to be exported or imported, the pharmaceutical form, the name and address of the exporter and importer, and the period within which the export or import must be effected. If the substance is exported or imported in the form of a preparation, the name of the preparation, if any, shall additionally be furnished. The export authorization shall also state the number and date of the import authorization and the authorization by whom it has been issued.

(c) Before issuing an export authorization the Parties shall require an import authorization, issued by the competent authority of the importing country or region and certifying that the importation of the substance or substances referred to therein is approved, and such an authorization shall be produced by the person or establishment applying for the export authorization.

(d) A copy of the export authorization shall accompany each consignment, and the Government issuing the export authorization shall send a copy to the Government of the importing country or region.

(e) The Government of the importing country or region, when the importation has been affected, shall return the export authorization with an endorsement certifying the amount actually imported, to the Government of the exporting country or region.

2. (a) The Parties shall require that for each export of substances in Schedule III exporters shall draw up a declaration in triplicate, on a form to be established by the Commission, containing the following information:

- (i) the name and address of the exporter and importer;
- (ii) the international non-proprietary name, or, failing such a name, the designation of the substance in the Schedule;
- (iii) the quantity and pharmaceutical form of a preparation, the name of the preparation, if any; and
- (iv) the date of despatch.

(b) Exporters shall furnish the competent authorities of their country or region with two copies of the declaration. They shall attach the third copy to their consignment.

(c) A Party from whose territory a substance in Schedule III has been exported shall, as soon as possible but no later than ninety days after the date of despatch, send to the competent authorities of the importing country or region, by registered mail with return of receipt requested, one copy of the declaration received from the exporter.

(d) The Parties may require that, on receipt of the consignment, the importer shall transmit the copy accompanying the consign-

ment, duly endorsed state the quantities received and the date of receipt, to the competent authorities of his country or region.

3. In respect of substances in Schedule I and II the following additional provisions shall apply:

(a) The Parties shall exercise in free ports and zones the same supervision and control as in other parts of their territory, provided, however, that they may apply more drastic measures.

(b) Exports of consignments to a post office box, or to a bank to the account of a person other than the person named in the export authorization, shall be prohibited.

(c) Exports to bonded warehouses of consignments of substances in Schedule I are prohibited. Exports of consignments of substances in Schedule II to a bonded warehouse are prohibited unless the Government of the importing country certifies on the import authorization, produced by the person or establishment apply for the export authorization, that it has approved the importation for the purpose of being placed in a bonded warehouse. In such case the export authorization shall certify that the consignment is exported for such purposes. Each withdrawal from the bonded warehouse shall require a permit from the authorities having jurisdiction over the warehouse and, in the case of a foreign destination, shall be treated as if it were a new export within the meaning of this Convention.

(d) Consignments entering or leaving the territory of a Party not accompanied by an export authorization shall be detained by the competent authorities.

(e) A Party shall not permit any substances consigned to another country to pass through its territory, whether or not the consignment is removed from the conveyance in which it is carried, unless a copy of the export authorization for consignment is produced to the competent authorities of such Party.

(f) The competent authorities of any country or region through which a consignment of substances is permitted to pass shall take all due measures to prevent the diversion of the consignment to a destination other than that named in the accompanying copy of the export authorization, unless the Government of the country or region through which the consignment is passing authorizes the diversion as if the diversion were an export from the country or region of transit to the country or region of new destination. If the diversion is authorized, the provisions of paragraph 1 (e) shall also apply between the country or region of transit and the country or region which originally exported the consignment.

(g) No consignment of substances, while in transit or whilst being stored in a bonded warehouse, may be subjected to any process which would change the nature of the substance in question. The packing may not be altered without the permission of the competent authorities.

(h) The provisions of sub-paragraphs (e) to (g) relating to the passage of substances through the territory of a Party do not apply where the consignment in question is transported by aircraft which does not land in the country or region of transit.

If the aircraft lands in any such country or region, those provisions shall be applied so far as circumstances require.

(i) The provisions of this paragraph are without prejudice to the provisions of any international agreements which limit the control which may be exercised by any of the Parties over such substances in transit.

## ARTICLE 13

### PROHIBITION OF AND RESTRICTIONS ON EXPORT AND IMPORT

1. A Party may notify all the other Parties through the Secretary-General that it prohibits the import into its country or into one of its regions of one or more substances in Schedule II, III or IV, specified in its notification. Any such notification shall specify the name of the substance as designated in Schedule II, III or IV.

2. If a Party has been notified of a prohibition pursuant to paragraph 1, it shall take measures to ensure that none of the substances specified in the notification is exported to the country or one of the regions of the notifying Party.

3 Notwithstanding the provisions of the preceding paragraphs, a Party which has given notification pursuant to paragraph 1 may authorize by special import licence in each case the import of specified quantities of the substances in question or preparations containing such substances. The issuing authority of the importing country shall send two copies of the special import licence, indicating the name and address of the importer and the exporter, to the competent authority of the exporting country or region, which may then authorize the exporter to make the shipment. One copy of the special import licence, duly endorsed by the competent authority of the exporting country or region, shall accompany the shipment.

## ARTICLE 14

### SPECIAL PROVISIONS CONCERNING THE CARRIAGE OF PSYCHOTROPIC SUBSTANCES IN FIRST-AID KITS OF SHIPS, AIRCRAFT OR OTHER FORMS OF PUBLIC TRANSPORT ENGAGED IN INTERNATIONAL TRAFFIC

1. The international carriage by ships, aircraft or other forms of international public transport, such as international railway trains and motor coaches, of such limited quantities of substances in Schedule II, III or IV as may be needed during their journey or voyage for first-aid purposes or emergency cases shall not be considered to be export, import or passage through a country within the meaning of this Convention.

2. Appropriate safeguards shall be taken by the country of registry to prevent the improper use of the substances referred to in paragraph 1 or their diversion for illicit purposes. The Commission, in consultation with the appropriate international organizations, shall recommend such safeguards.

3. Substances carried by ships, aircraft or other forms of international public transport, such as international railway trains and motor coaches, in accordance with paragraph 1 shall be subject to the laws, regulations, permits and licences of the country of registry, without prejudice to any rights of the competent local au-

thorities to carry out checks, inspections and other control measures on board these conveyances. The administration of such substances in the case of emergency shall not be considered a violation of the requirements of paragraph 1 of article 9.

## ARTICLE 15

### INSPECTION

The Parties shall maintain a system of inspection of manufacturers, exporters, importers, and wholesale and retail distributors of psychotropic substances and of medical and scientific institutions which use such substances. They shall provide for inspections, which shall be made as frequently as they consider necessary, of the premises and of stocks and records.

## ARTICLE 16

### REPORTS TO BE FURNISHED BY THE PARTIES

1. The Parties shall furnish to the Secretary-General such information as the Commission may request as being necessary for the performance of its functions, and in particular an annual report regarding the working of the Convention in their territories including information on:

(a) important changes in their laws and regulations concerning psychotropic substances; and

(b) significant developments in the abuse of and the illicit traffic in psychotropic substances within their territories.

2. The Parties shall also notify the Secretary-General of the names and addresses of the governmental authorities referred to in sub-paragraph (f) of article 7, in article 12 and in paragraph 3 or article 13. Such information shall be made available to all Parties by the Secretary-General.

3. The Parties shall furnish, as soon as possible after the event, a report to the Secretary-General in respect of any case of illicit traffic in psychotropic substances or seizure from such illicit traffic which they consider important because of:

(a) new trends disclosed;

(b) the quantities involved;

(c) the light thrown on the sources from which the substances are obtained; or

(d) the methods employed by illicit traffickers.

Copies of the report shall be communicated in accordance with sub-paragraph (b) of article 21.

4. The Parties shall furnish to the Board annual statistical reports in accordance with forms prepared by the Board:

(a) in regard to each substance in Schedules I and II, on quantities manufactured, exported to and imported from each country or region as well as on stocks held by manufacturers;

(b) in regard to each substance in Schedules III and IV, on quantities manufactured, as well as on total quantities exported and imported;

(c) in regard to each substance in Schedules II and III, on quantities used in the manufacture of exempt preparations; and

(d) in regard to each substance other than a substance in Schedule I, on quantities used for industrial purposes in accordance with sub-paragraph (b) or article 4.

The quantities manufactured which are referred to in sub-paragraphs (a) and (b) of this paragraph do not include the quantities of preparations manufactured.

5. A Party shall furnish the Board, on its request, with supplementary statistical information relating to future periods on the quantities of any individual substance in Schedules III and IV exported to and imported from each country or region. That Party may request that the Board treat as confidential both its request for information and the information given under this paragraph.

6. The Parties shall furnish the information referred to in paragraphs 1 and 4 in such a manner and by such dates as the Commission or the Board may request.

## ARTICLE 17

### FUNCTIONS OF THE COMMISSION

1. The Commission may consider all matters pertaining to the aims of this Convention and to the implementation of its provisions, and may make recommendations relating thereto.

2. The decisions of the Commission provided for in articles 2 and 3 shall be taken by a two-thirds majority of the members of the commission.

## ARTICLE 18

### REPORTS OF THE BOARD

1. The Board shall prepare annual reports on its work containing an analysis of the statistical information at its disposal, and, in appropriate cases, an account of the explanations, if any, given by or required of Governments, together with any observations and recommendations which the Board desires to make. The Board may make such additional reports as it considers necessary. The reports shall be submitted to the Council through the Commission, which may make such comments as it sees fit.

2. The reports of the Board shall be communicated to the Parties and subsequently published by the Secretary-General. The Parties shall permit their unrestricted distribution.

## ARTICLE 19

### MEASURES BY THE BOARD TO ENSURE THE EXECUTION OF THE PROVISIONS OF THE CONVENTION

1. (a) If, on the basis of its examination of information submitted by governments to the Board or of information communicated by United Nations organs, the Board has reason to believe that the aims of this Convention are being seriously endangered by reason of the failure of a country or region to carry out the provisions of this Convention, the Board shall have the right to ask for explanations from the Government of the country or region in question. Subject to the right of the Board to call the attention of the Parties, the Council and the Commission to the matter referred to in sub-

paragraph (c) below, it shall treat as confidential a request for information or an explanation by a government under this sub-paragraph.

(b) After taking action under sub-paragraph (a), the Board, if satisfied that it is necessary to do so, may call upon the Government concerned to adopt such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of this Convention.

(c) If the Board finds that the Government concerned has failed to give satisfactory explanations when called upon to do so under sub-paragraph (a), or has failed to adopt any remedial measures which it has been called upon to take under sub-paragraph (b), it may call the attention of the Parties, the Council and the Commission to the matter.

2. The Board, when calling the attention of the Parties, the Council and the Commission to a matter in accordance with paragraph 1 (c), may, if it is satisfied that such a course is necessary, recommend to the Parties that they stop the export, import, or both, of particular psychotropic substances, from or to the country or region concerned, either for a designated period or until the Board shall be satisfied as to the situation in that country or region. The State concerned may bring the matter before the Council.

3. The Board shall have the right to publish a report on any matter dealt with under the provisions of this article, and communicate it to the Council, which shall forward it to all Parties. If the Board publishes in this report a decision taken under this article or any information relating thereto, it shall also publish therein the views of the Government concerned if the latter so requests.

4. If in any case a decision of the Board which is published under this article is not unanimous, the views of the minority shall be stated.

5. Any state shall be invited to be represented at a meeting of the Board at which a question directly interesting it is considered under this article.

6. Decisions of the Board under this article shall be taken by a two-thirds majority of the whole number of the Board.

7. The provisions of the above paragraphs shall also apply if the Board has reason to believe that the aims of this Convention are being seriously endangered as a result of a decision taken by a Party under paragraph 7 of article 2.

## ARTICLE 20

### MEASURES AGAINST THE ABUSE OF PSYCHOTROPIC SUBSTANCES

1. The Parties shall take all practicable measures for the prevention of abuse of psychotropic substances and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved, and shall co-ordinate their efforts to these ends.

2. The Parties shall as far as possible promote the training of personnel in the treatment, after-care, rehabilitation and social reintegration of abusers of psychotropic substances.

3. The Parties shall assist persons whose work so requires to gain an understanding of the problems of abuse of psychotropic

substances and of its prevention, and shall also promote such understanding among the general public if there is a risk that abuse of such substances will become widespread.

## ARTICLE 21

### ACTION AGAINST THE ILLICIT TRAFFIC

Having due regard to their constitutional, legal and administrative systems, the Parties shall:

(a) make arrangements at the national level for the co-ordination of preventive and repressive action against the illicit traffic; to this end they may usefully designate an appropriate agency responsible for such co-ordination;

(b) assist each other in the campaign against the illicit traffic in psychotropic substances, and in particular immediately transmit, through the diplomatic channel or the competent authorities designated by the Parties for this purpose, to the other Parties directly concerned, a copy of any report addressed to the Secretary-General under article 16 in connexion with the discovery of a case of illicit traffic or a seizure;

(c) co-operate closely with each other and with the competent international organizations of which they are members with a view of maintaining a co-ordinated campaign against the illicit traffic;

(d) ensure that international co-operation between the appropriate agencies be conducted in an expeditious manner; and

(e) ensure that, where legal papers are transmitted internationally for the purpose of judicial proceedings, the transmittal be effected in an expeditious manner to the bodies designated by the Parties; this requirement shall be without prejudice to the right of a Party to require that legal papers be sent to it through the diplomatic channel.

## ARTICLE 22

### PENAL PROVISIONS

1. (a) Subject to its constitutional limitations, each Party shall treat as a punishable offence, when committed intentionally, any action contrary to a law or regulation adopted in pursuance of its obligations under this Convention, and shall ensure that serious offences shall be liable to adequate punishment, particularly by imprisonment or other penalty of deprivation of liberty.

(b) Notwithstanding the preceding sub-paragraph, when abusers of psychotropic substances have committed such offences, the Parties may provide, either as an alternative to conviction or punishment or in addition to punishment, that such abusers undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 20.

2. Subject to the constitutional limitations of a Party, its legal system and domestic law,

(a) (i) if a series of related actions constituting offences under paragraph 1 has been committed in different countries, each of them shall be treated as a distinct offence;

(ii) intentional participation in, conspiracy to commit and attempts to commit, any of such offences, and preparatory acts



and financial operations in connexion with the offences referred to in this article, shall be punishable offences as provided in paragraph 1;

(iii) foreign convictions for such offences shall be taken into account for the purpose of establishing recidivism; and

(iv) serious offences heretofore referred to committed either by national or by foreigners shall be prosecuted by the Party in whose territory the offence was committed, or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the Party to which application is made, and if such offender has not already been prosecuted and judgement given.

(b) It is desirable that the offences referred to in paragraph 1 and paragraph 2 (a) (ii) be included as extradition crimes in any extradition treaty which has been or may hereafter be concluded between any of the Parties, and, as between any of the Parties which do not make extradition conditional on the existence of a treaty or on reciprocity, be recognized as extradition crimes; provided that extradition shall be granted in conformity with the law of the Party to which application is made, and that the Party shall have the right to refuse to effect the arrest or grant the extradition in cases where the competent authorities consider that the offence is not sufficiently serious.

3. Any psychotropic substance or other substance, as well as any equipment, used in or intended for the commission of any of the offences referred to in paragraphs 1 and 2 shall be liable to seizure and confiscation.

4. The provisions of this article shall be subject to the provisions of the domestic law of the Party concerned on questions of jurisdiction.

5. Nothing contained in this article shall affect the principle that the offences to which it refers shall be defined, prosecuted and punished in conformity with the domestic law of a Party.

## ARTICLE 23

### APPLICATION OF STRICTER CONTROL MEASURES THAN THOSE REQUIRED BY THIS CONVENTION

A Party may adopt more strict or severe measures of control than those provided by this Convention if, in its opinion, such measures are desirable or necessary for the protection of the public health and welfare.

## ARTICLE 24

### EXPENSES OF INTERNATIONAL ORGANS INCURRED IN ADMINISTERING THE PROVISIONS OF THE CONVENTION

The expenses of the Commission and the Board in carrying out their respective functions under this Convention shall be borne by the United Nations in such manner as shall be decided by the General Assembly. The Parties which are not Members of the United Nations shall contribute to these expenses such amounts as the General Assembly finds equitable and assesses from time to time after consultation with the Governments of these Parties

## ARTICLE 25

PROCEDURE FOR ADMISSION, SIGNATURE, RATIFICATION AND  
ACCESSION

1. Members of the United Nations, States not Members of the United Nations which are members of a specialized agency of the United Nations or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice,[1] and any other State invited by the Council, may become Parties to this Convention:

(a) by signing it; or

(b) by ratifying it after signing it subject to ratification; or

(c) by acceding to it.

2. The Convention shall be open for signature until 1 January 1972 inclusive. Thereafter it shall be open for accession.

3. Instruments of ratification or accession shall be deposited with the Secretary-General.

## ARTICLE 26

## ENTRY INTO FORCE

1. The Convention shall come into force on the ninetieth day after forty of the States referred to in paragraph 1 of article 25 have signed it without reservation of ratification or have deposited their instruments of ratification or accession.

2. For any other State signing without reservation of ratification, or depositing an instrument of ratification or accession after the last signature or deposit referred to in the preceding paragraph, the Convention shall enter into force on the ninetieth day following the date of its signature or deposit of its instrument of ratification or accession.

## ARTICLE 27

## TERRITORIAL APPLICATION

The Convention shall apply to all non-metropolitan territories for the international relations of which any Party is responsible except where the previous consent of such a territory is required by the Constitution of the Party or of the territory concerned, or required by custom. In such a case the Party shall endeavour to secure the needed consent of the territory or territories named in such a notification from the date of its receipt by the Secretary-General. In those cases where the previous consent of the non-metropolitan territory is not required, the Party concerned shall, at the time of signature, ratification or accession, declare the non-metropolitan territory or territories to which this Convention applies.

## ARTICLE 28

## REGIONS FOR THE PURPOSES OF THIS CONVENTION

1. Any Party may notify the Secretary-General that, for the purposes of this Convention, its territory is divided into two or more regions, or that two or more of its regions are consolidated into a single region.

2. Two or more Parties may notify the Secretary-General that, as the result of the establishment of a customs union between the, those Parties constitute a region for the purposes of this Convention.

3. Any notification under paragraph 1 or 2 shall take effect on 1 January of the year following the year in which the notification was made.

## ARTICLE 29

### DENUNCIATION

1. After the expiry of two years from the date of the coming into force of this Convention any Party may, on its own behalf or on behalf of a territory for which it has international responsibility, and which has withdrawn its consent given in accordance with article 27, denounce this Convention by an instrument in writing deposited with the Secretary-General.

2. The denunciation, if received by the Secretary-General on or before the first day of July of any year, shall take effect on the first day of January of the succeeding year, and if received after the first day of July it shall take effect as if it had been received on or before the first day of July in the succeeding year.

3. The Convention shall be terminated if, as a result of denunciations made in accordance with paragraphs 1 and 2, the conditions for its coming into force as laid down in paragraph 1 of article 26 cease to exist.

## ARTICLE 30

### AMENDMENTS

1. Any Party may propose an amendment to this Convention. The text of any such amendment and the reasons therefor shall be communicated to the Secretary-General, who shall communicate them to the Parties and to the Council. The Council may decide either:

(a) that a conference shall be called in accordance with paragraph 4 of Article 62 of the Charter of the United Nations [1] to consider the proposed amendment; or

(b) that the Parties shall be asked whether they accept the proposed amendment and also asked to submit to the Council any comments on the proposal.

2. If a proposed amendment circulated under paragraph 1 (b) has not been rejected by any Party within eighteen months after it has been circulated, it shall thereupon enter into force. If however a proposed amendment is rejected by any Party, the Council may decide, in the light of comments received from Parties, whether a conference shall be called to consider such amendment.

## ARTICLE 31

### DISPUTES

1. If there should arise between two or more Parties a dispute relating to the interpretation or application of this Convention, the said Parties shall consult together with a view to the settlement of

the dispute by negotiation, investigation, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their own choice.

2. Any such dispute which cannot be settled in the manner prescribed shall be referred, at the request of any one of the parties to the dispute, to the International Court of Justice for decision.

## ARTICLE 32

### RESERVATIONS

1. No reservation other than those made in accordance with paragraphs 2, 3 and 4 of the present article shall be permitted.

2. Any State may at the time of signature, ratification or accession make reservations in respect of the following provisions of the present Convention:

- (a) article 19, paragraphs 1 and 2;
- (b) article 27; and
- (c) article 31.

3. A State which desires to become a Party but wishes to be authorized to make reservations other than those made in accordance with paragraphs 2 and 4 may inform the Secretary-General of such intention. Unless by the end of twelve months after the date of the Secretary-General's communication of the reservation concerned, this reservation has been objected to by one third of the States that have signed without reservation of ratification, ratified or acceded to this Convention before the end of that period, it shall be deemed to be permitted, it being understood however that States which have objected to the reservation need not assume towards the reserving State any legal obligation under this Convention which is affected by the reservation.

4. A State on whose territory there are plants growing wild which contain psychotropic substances from among those in Schedule I and which are traditionally used by certain small, clearly determined groups in magical or religious rites, may at the time of signature, ratification or accession, make reservations concerning these plants, in respect of the provisions of article 7, except for the provisions relating to international trade.

5. A State which has made reservations may at any time by notification in writing to the Secretary-General withdraw all or part of its reservations.

## ARTICLE 33

### NOTIFICATIONS

The Secretary-General shall notify to all the States referred to in paragraph 1 of article 25:

- (a) signatures, ratifications and accessions in accordance with article 25;
- (b) the date upon which this Convention enters into force in accordance with article 26;
- (c) denunciations in accordance with article 29; and
- (d) declarations and notifications under articles 27, 28, 30 and 32.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments.

DONE AT VIENNA, this twenty-first day of February one thousand nine hundred and seventy-one, in a single copy in the Chinese, English, French, Russian and Spanish languages, each being equally authentic. The Convention shall be deposited with the Secretary-General of the United Nations, who shall transmit certified true copies thereof to all the Members of the United Nations and to the other States referred to in paragraph 1 of article 25.

## LISTS OF SUBSTANCES IN THE SCHEDULES \*

### LIST OF SUBSTANCES IN SCHEDULE I

INN	Other non-proprietary or trivial names	Chemical Name
1.	DET	N,N-diethyltryptamine
2.	DMHP	3-(A,2-dimethylheptyl)-1 hydroxy-7,8,9,10 tetra- hydro-6,6,9-trimethyl- 6H-dibenzo/b,d/pyran
3.	DMT	N,N-dimethyltryptamine
4. (+)-Lysergide	LSD, LSD-25	(+)-N,N-diethyllyserga- mide (d-lysergic acid diethylamide)
5.	mescaline	3,4,5-trimethoxy- phenethylamine
6.	paraheptyl	3-hexyl-1-hydroxy- 7,8,9,10-tetrahydro- 6,6,9- trimethyl-6H- dibenzo/b,d pyran
7.	psilocine, psilocin	3-(2-dimethylaminoethyl) -4-hydroxindole
8. Psilocybine		3-(2-dimethylaminoethyl) indol-4-yl dihydrogen phosphate
9.	STP, DOM	2-amino-1(2,5-dimethoxy- 4-meth- yl)phenylpropane
10. tetrahydro- cannabinols, all iso- mers	1-hydroxy-3-pentyl- 6a,7, 10,10a- tetrahydro-6,6,9- trimethyl-6-H- dibenzo/b, d/pyran	

## LIST OF SUBSTANCES IN SCHEDULE II

INN	Other non-proprietary or trivial names	Chemical Name
1. Amphetamine		(+)-2-amino-1-phenylpropane
2. Dexamphetamine		(+)-2-amino-1-phenylpropane
3. Methamphetamine		(+)-2-methylamino-1-phenylpropane
4. Methylphenidate		2-phenyl-2-(2-piperidyl)acetic acid, methyl ester
5. Phencyclidine		1-(1-phenylcyclohexyl)piperidine
6. Phenmetrazine		3-methyl-2-phenylmorpholine

## LIST OF SUBSTANCES IN SCHEDULE III

INN	Other non-proprietary or trivial names	Chemical Name
1. Amobarbital		5-ethyl-5-(3-methylbutyl)barbituric acid
2. Cyclobarbital		5-(1-cyclohexen-1yl)-5-ethylbarbituric acid
3. Glutethymide		2-ethyl-2-phenylglutarimide
4. Pentobarbital		5-ethyl-5-(1-methylbutyl)barbituric acid
5. Secobarbital		5-allyl-5-(1-methylbutyl)barbituric acid

## LIST OF SUBSTANCES IN SCHEDULE IV

INN	Other non-proprietary or trivial names	Chemical Name
1. Amfepramone		2-(diethylamino)propiophenone
2. Barbital		5,5-diethylbarbituric acid
3.	ethchlorvynol	ethyl-2-chlorovinylethynyl-carbinol
4. Ethinamate		1-ethynylcyclohexanolicarbamate
5. Meproamate		2-methyl-2-propyl-1,3-propanediol dicarbamate
6. Methaqualone		2-methyl-3-o-tolyl-4,3H)-quinazolinone
7. Methylphenobarbital		5-ethyl-1-methyl-5-phenylbarbituric acid

## LIST OF SUBSTANCES IN SCHEDULE IV—Continued

INN	Other non-proprietary or trivial names	Chemical Name
8. Methypylon		3,3-diethyl-5-methyl-2,4- piperidine-dione
9. Phenobarbital		5-ethyl-5-phenylbar- bituric acid
10. Pipradrol		1,1-diphenyl-1-(2- piperidyl) methanol
11.	SPA	(-)-1-dimethylamino-1,2- diphenylethane

## C. United Nations Single Convention on Narcotic Drugs, 1961

### UNITED NATIONS CONFERENCE FOR THE ADOPTION OF A SINGLE CONVENTION ON NARCOTIC DRUGS

#### MULTILATERAL

##### SINGLE CONVENTION ON NARCOTIC DRUGS, 1961

*Done at New York March 30, 1961;<sup>1</sup> Accession advised by the Senate of the United States of America May 8, 1967; Accession approved by the President of the United States of America May 15, 1967; Accession of the United States of America deposited with the Secretary-General of the United Nations, May 25, 1967; Proclaimed by the President of the United States of America July 12, 1967; Entered into force with respect to the United States of America June 24, 1967.*

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BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

#### A PROCLAMATION

WHEREAS the Single Convention on Narcotic Drugs, 1961, was opened for signature at New York on March 30, 1961 to August 1, 1961, the text of which Convention in the English, French, Chinese, Russian, and Spanish languages is word for word as follows.  
SINGLE CONVENTION ON NARCOTIC DRUGS, 1961

##### PREAMBLE

The Parties,  
Concerned with the health and welfare of mankind,  
Recognizing that the medical use of narcotic drugs continues to be indispensable for the relief of pain and suffering and that adequate provision must be made to ensure the availability of narcotic drugs for such purposes,

Recognizing that addition to narcotic drugs constitutes a serious evil for the individual and is fraught with social and economic danger to mankind,

Conscious of their duty to prevent and combat this evil,  
Considering that effective measures against abuse of narcotic drugs require co-ordinated and universal action,

Understanding that such universal action calls for international co-operation guided by the same principles and aimed at common objectives,

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<sup>1</sup>Texts are as certified by the Secretary-General of the United Nations, New York.  
[Footnote added by the Department of State.]



*Acknowledging* the competence of the United Nations in the field of narcotic control and desirous that the international organs concerned should be within the framework of that Organization,

*Desiring* to conclude a generally acceptable international convention replacing existing treaties on narcotic drugs, limiting such drugs to medical and scientific use, and providing for continuous international co-operation and control for the achievement of such aims and objectives,

*Hereby* agree as follows:

## ARTICLE 1

### DEFINITIONS

1. Except where otherwise expressly indicated or where the context otherwise requires, the following definitions shall apply throughout the Convention:

- (a) "Board" means the International Narcotics Control Board.
- (b) "Cannabis" means the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by the whatever name they may be designated.
- (c) "Cannabis plant" means any plant of the genus *cannabis*.
- (d) "Cannabis resin" means the separated resin, whether crude or purified, obtained from the cannabis plant.
- (e) "Coca bush" means the plant of any species of the genus *erythroxylon*.
- (f) "Coca leaf" means the leaf of the coca bush except a leaf from which all ecgonine, cocaine and any other ecgonine alkaloids have been removed.
- (g) "Commission" means the Commission on Narcotic Drugs of the Council.
- (h) "Council" means the Economic and Social Council of the United Nations.
- (i) "Cultivation" means the cultivation of the opium poppy, coca bush or cannabis plant.
- (j) "Drug" means any of the substances in Schedules I and II, whether natural or synthetic.
- (k) "General Assembly" means the General Assembly of the United Nations.
- (l) "Illicit traffic" means cultivation or trafficking in drugs contrary to the provisions of this Convention.
- (m) "import" and "export" means in their respective connotations the physical transfer of drugs from one State to another State, or from one territory to another territory of the same State.
- (n) "Manufacture" means all processes, other than production, by which drugs may be obtained and includes refining as well as the transformation of drugs into other drugs.
- (o) "Medicinal opium" means opium which has undergone the processes necessary to adapt it for medicinal use.
- (p) "Opium" means the coagulated juice of the opium poppy.
- (q) "Opium poppy" means the plant of the species *Papaver somniferum* L.
- (r) "Poppy straw" means all parts (except the seeds) of the Opium poppy, after mowing.

(s) "Preparation" means a mixture, solid or liquid, containing a drug.

(t) "Production" means the separation of opium, coca leaves, cannabis and cannabis resin from the plants from which they are obtained.

(u) "Schedule I", "Schedule II", "Scheduling III" and "Schedule IV" means the correspondingly numbered list of drugs or preparations annexed to this Convention, as amended from time to time in accordance with article 3.

(v) "Secretary-General" means the Secretary-General of the United Nations.

(w) "Special stocks" means the amounts of drugs held in a country or territory by the government of such country or territory for special Government purposes and to meet exceptional circumstances; and the expression "special purposes" shall be construed accordingly.

(x) "Stocks" means the amounts of drugs held in a country or territory and intended for:

(i) Consumption in the country or territory for medical and scientific purposes,

(ii) Utilization in the country or territory for the manufacture of drugs and other substances, or

(iii) Export;

but does not include the amounts of drugs held in the country or territory

(iv) By retail pharmacists or other authorized retail distributors and by institutions or qualified persons in the duly authorized exercise of therapeutic or scientific functions, or

(v) As "special stocks".

(y) "Territory" means any part of a State which is treated as a separate entity for the application of the system of import certificates and export authorizations provided for an article 31. This definition shall not apply to the term "territory" as used in articles 42 and 46.

2. For the purposes of this Convention a drug shall be regarded as "consumed" when it has been supplied to any person or enterprise for retail distribution, medical use or scientific research; and "consumption" shall be construed accordingly.

## ARTICLE 2

### SUBSTANCES UNDER CONTROL

1. Except as to measures of control which are limited to specified drugs, the drugs in Schedule I are subject to all measures of control applicable to drugs under this Convention and in particular to those prescribed in articles 4(c), 19, 20, 21, 29, 30, 31, 32, 33, 34 and 37.

2. The drugs in Schedule II are subject to the same measures of control as drugs in Schedule I with the exception of the measures prescribed in article 30, paragraphs 2 and 5, in respect of the retail trade.

3. Preparations other than those in Schedule III are subject to the same measures of control as the drugs which they contain, but estimates (article 19) and statistics (article 20) distinct from those

dealing with these drugs shall not be required in the case of such preparations, and article 29, paragraph 2(c) and article 30, paragraph 1(b)(ii) need not apply.

4. Preparations in Schedule III are subject to the same measures of control as preparations containing drugs in Schedule II except that article 31, paragraphs 1(b) and 4 to 15 need not apply, and that for the purpose of estimates (article 19) and statistics (article 20) the information required shall be restricted to the quantities of drugs used in the manufacture of such preparations.

5. The drugs in Schedule IV shall also be included in Schedule I and subject to all measures of control applicable to drugs in the latter schedule, and in addition thereto:

(a) A Party shall adopt any special measures of control which in its opinion are necessary having regard to the particularly dangerous properties of a drug so included; and

(b) A Party shall, if in its opinion the prevailing conditions in its country render it the most appropriate means of protecting the public health and welfare, prohibit the production, manufacture, export and import of, trade in, possession or use of any such drug except for amounts which may be necessary for medical and scientific research only, including clinical trials therewith to be conducted under or subject to the direct supervision and control of the Party.

6. In addition to the measures of control applicable to all drugs in Schedule I, opium is subject to the provisions of articles 23 and 24, the coca leaf to those of articles 26 and 27 and cannabis to those of article 28.

7. The opium poppy, the coca bush, the cannabis plant, poppy straw and cannabis leaves are subject to the control measures prescribed in articles 22 to 24; 22, 26 and 27; 22 and 28; 25; and 28, respectively.

8. The Parties shall use their best endeavors to apply to substances which do not fall under this Convention, but which may be used in the illicit manufacture of drugs, such measures of supervision as may be practicable.

9. Parties are not required to apply the provisions of this Convention to drugs which are commonly used in industry for other than medical or scientific purposes, provided that

(a) They ensure by appropriate methods of denaturing or by other means that the drugs so used are not liable to be abused or have ill effects (article 3, paragraph 3) and that the harmful substances cannot in practice be recovered; and

(b) They include in the statistical information (article 20) furnished by them the amount of each drug so used.

### ARTICLE 3

#### CHANGES IN THE SCOPE OF CONTROL

1. Where a Party or the World Health Organization has information which in its opinion may require an amendment to any of the Schedules, it shall notify the Secretary-General and furnish him with the information in support of the notification.

2. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the

Commission, and, where the notification is made by a party, to the World Health Organization.

3. Where a notification relates to a substance not already in Schedule I or in Schedule II,

(i) The Parties shall examine in the light of the available information the possibility of the provisional application to the substance of all measures of control applicable to drugs in Schedule I;

(ii) Pending its decision as provided in sub-paragraph (iii) of this paragraph, the Commission may decide that the Parties apply provisionally to that substance all measures of control applicable to drugs in Schedule I. The Parties shall apply such measures provisionally to the substance in question;

(iii) If the World Health Organization finds that the substance is liable to similar abuse and productive of similar ill effects as the drugs in Schedule I or Schedule II or is convertible into a drug, it shall communicate that finding to the Commission which may, in accordance with the recommendation of the World Health Organization, decide that the substance shall be added to Schedule I or Schedule II.

4. If the World Health Organization finds that a preparation because of the substances which it contains is not liable to abuse and cannot produce ill effects (paragraph 3) and that the drug therein is not readily recoverable, the Commission may, in accordance with the recommendation of the World Health Organization, add that preparation to Schedule III.

5. If the World Health Organization finds that a drug in Schedule I is particularly liable to abuse and to produce ill effects (paragraph 3) and that such liability is not offset by substantial therapeutic advantages not possessed by substances other than drugs in Schedule IV, the Commission may, in accordance with the recommendation of the World Health Organization, place that drug in Schedule IV.

6. Where a notification relates to a drug already in Schedule I or Schedule II or to a preparation in Schedule III, the Commission, apart from the measure provided for in paragraph 5, may, in accordance with the recommendation of the World Health Organization, amend any of the Schedules by:

(a) Transferring a drug from Schedule I to Schedule II or from Schedule II to Schedule I; or

(b) Deleting a drug or a preparation as the case may be, from a Schedule.

7. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States Members of the United Nations, to non-member States Parties to this Convention, to the World Health Organization and to the Board. Such decision shall become effective with respect to each Party on the date of its receipt of such communication, and the Parties shall thereupon take such action as may be required under this Convention.

8. (a) The decisions of the Commission amending any of these schedules shall be subject to review by the Council upon the request of any Party filed within ninety-days from receipt of notification of the decision. The request for review shall be sent to the Sec-

retary-General together with all relevant information upon which the request for review is based;

(b) The Secretary-General shall transmit copies of the request for review and relevant information to the Commission, the World Health Organization and to all the Parties inviting them to submit comments within ninety days. All comments received shall be submitted to the Council for consideration;

(c) The Council may confirm, alter or reverse the decision of the Commission, and the decision of the Council shall be final. Notification of the Council's decision shall be transmitted to all States Members of the United Nations, to non-member States Parties to this Convention, to the Commission, to the World Health Organization, and to the Board.

(d) During pendency of the review the original decision of the Commission shall remain in effect.

9. Decisions of the Commission taken in accordance with this article shall not be subject to the review procedure provided for in article 7.

#### ARTICLE 4

##### GENERAL OBLIGATIONS

1. The Parties shall take such legislative and administrative measures as may be necessary:

(a) To give effect to and carry out the provisions of this Convention within their own territories;

(b) To co-operate with other States in the execution of the provisions of this Convention; and

(c) Subject to the provisions of this Convention, to limit exclusively to medical and scientific purposes the production, manufacture, export, import, distribution of, trade in, use and possession of drugs.

#### ARTICLE 5

##### THE INTERNATIONAL CONTROL ORGANS

The Parties, recognizing the competence of the United Nations with respect to the international control of drugs, agree to entrust to the Commission on Narcotic Drugs of the Economic and Social Council, and to the International Narcotics Control Board, the functions respectively assigned to them under this Convention.

#### ARTICLE 6

##### EXPENSES OF THE INTERNATIONAL CONTROL ORGANS

The expenses of the Commission and the Board will be borne by the United Nations in such manner as shall be decided by the General Assembly. The Parties which are not members of the United Nations shall contribute to these expenses such amounts as the General Assembly finds equitable and assess from time to time after consultation with the Governments of these Parties.

## ARTICLE 7

## REVIEW OF DECISIONS AND RECOMMENDATIONS OF THE COMMISSION

Except for decisions under article 3, each decision or recommendation adopted by the Commission pursuant to the provisions of this Convention shall be subject to approval or modification by the Council or the General Assembly in the same way as other decisions or recommendations of the Commission.

## ARTICLE 8

## FUNCTIONS OF THE COMMISSION

The Commission is authorized to consider all matters pertaining to the aims of this Convention, and in particular:

- (a) To amend the Schedules in accordance with article 3;
- (b) To call the attention of the Board to any matters which may be relevant to the functions of the Board;
- (c) To make recommendations for the implementation of the aims and provisions of this Convention, including programmes of scientific research and the exchange of information of a scientific or technical nature; and
- (d) To draw the attention of non-parties to decisions and recommendations which it adopts under this Convention, with a view to their considering taking action in accordance therewith.

## ARTICLE 9

## COMPOSITION OF THE BOARD

1. The Board shall consist of eleven members to be elected by the Council as follows:

- (a) Three members with medical, pharmacological or pharmaceutical experience form a list of at least five persons nominated by the World Health Organization; and
- (b) Eight members from a list of persons nominated by the Members of the United Nations and by Parties which are not Members of the United Nations.

2. Members of the Board shall be persons who, by their competence, impartiality and disinterestedness, will command general confidence. During their term of office they shall not hold any position or engage in any activity which would be liable to impair their impartiality in the exercise of their functions. The Council shall, in consultation with the Board, make all arrangements necessary to ensure the full technical independence of the Board in carrying out its functions.

3. The Council, with due regard to the principle of equitable geographic representation, shall give consideration to the importance of including on the Board, in equitable proportion, persons possessing a knowledge of the drug situation in the producing, manufacturing, and consuming countries, and connected with such countries.

## ARTICLE 10

## TERMS OF OFFICE AND REMUNERATION OF MEMBERS OF THE BOARD

1. The members of the Board shall serve for a period of three years, and shall be eligible for re-election.
2. The term of office of each member of the Board shall end on the eve of the first meeting of the Board which his successor shall be entitled to attend.
3. A member of the Board who has failed to attend three consecutive sessions shall be deemed to have resigned.
4. The Council, on the recommendation of the Board, may dismiss a member of the Board who has ceased to fulfil the conditions required for membership by paragraph 2 of article 9. Such recommendation shall be made by an affirmative vote of eight members of the Board.
5. Where a vacancy occurs on the Board during the term of office of a member, the Council shall fill such vacancy as soon as possible and in accordance with the applicable provisions of article 9, by electing another member for the remainder of the term.
6. The members of the Board shall receive an adequate remunerations as determined by the General Assembly.

## ARTICLE 11

## RULES OF PROCEDURE OF THE BOARD

1. The Board shall elect its own President and such other officers as it may consider necessary and shall adopt its rules of procedures
2. The Board shall meet as often as, in its opinion, may be necessary for the proper discharge of its functions, but shall hold at least two sessions in each calendar year.
3. The quorum necessary at meetings of the Board shall consist of seven members.

## ARTICLE 12

## ADMINISTRATION OF THE ESTIMATE SYSTEM

1. The Board shall fix the date or dates by which, and the manner in which, the estimates as provide din article 19 shall be furnished and shall prescribe the forms therefor.
2. The Board shall, in respect of countries and territories to which this Convention does not apply, request the Governments concerned to furnish estimates in accordance with the provisions of this Convention.
3. If any State fails to furnish estimates in respect of any of its territories by the date specified, the Board shall, as far as possible, establish the estimates. The Board in establishing such estimates shall, to the extent practicable, do so in co-operation with the Government concerned.
4. The Board shall examine the estimates, including supplementary estimates, and, except as regards requirements for special purposes, may require such information as it considers necessary in respect of any country or territory on behalf of which an estimate has been furnished, in order to complete the estimates or to explain any statement contained therein.

5. The Board shall as expeditiously as possible confirm the estimates, including supplementary estimates, or, with the consent of the Government concerned, may amend such estimates.

6. In addition to the reports mentioned in article 15, the Board shall, at such times as it shall determine but at least annually, issue such information on the estimates as in its opinion will facilitate the carrying out of this Convention.

### ARTICLE 13

#### ADMINISTRATION OF THE STATISTICAL RETURNS SYSTEM

1. The Board shall determine the manner and form in which statistical returns shall be furnished as provided in article 20 and shall prescribe the forms therefor.

2. The Board shall examine the returns with a view to determining whether a Party of any other State has complied with the provisions of this Convention.

3. The Board may require such further information as it considers necessary to complete or explain the information contained in such statistical returns.

4. It shall not be within the competence of the Board to question or express an opinion on statistical information respecting drugs required for special purposes.

### ARTICLE 14

#### MEASURES BY THE BOARD TO ENSURE THE EXECUTION OF PROVISIONS OF THE CONVENTION

1. (a) If, on the basis of its examination of information submitted by Governments to the Board under the provisions of this Convention, or of information communicated by United Nations organs and bearing on questions arising under those provisions, the Board has reason to believe that the aims of this Convention are being seriously endangered by reason of the failure of any country or territory to carry out the provisions of this Convention, the Board shall have the right to ask for explanations from the Government of the country or territory in question. Subject to the right of the Board to call the attention of the Parties, the Council and the Commission to the matter referred to in sub-paragraph (c) below, it shall treat as confidential a request for information or an explanation by a Government under this sub-paragraph.

(b) After taking action under sub-paragraph (a) above, the Board, if satisfied that it is necessary to do so, may call upon the Government concerned to adopt such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of this Convention.

(c) If the Board finds that the Government concerned has failed to give satisfactory explanations when called upon to do so under sub-paragraph (a) above, or has failed to adopt any remedial measures which it has been called upon to take under sub-paragraph (b) above, it may call the attention of the Parties, the Council and the Commission to the matter.

2. The Board, when calling the attention of the Parties, the Council and the Commission to a matter in accordance with para-



graph 1(c) above, may, if it is satisfied that such a course is necessary, recommend to Parties that they stop the import of drugs, the export of drugs, or both, from or to the country or territory concerned, either for a designated period or until the Board shall be satisfied as to the situation in that country or territory. The State concerned may bring the matter before the Council.

3. The Board shall have the right to publish a report on any matter dealt with under the provisions of this article, and communicate it to the Council, which shall forward it to all Parties. If the Board publishes in this report a decision taken under this article or any information relating thereto, it shall also publish therein the views of the Government concerned if the latter so requests.

4. If in any case a decision of the Board which is published under this article is not unanimous, the views of the minority shall be stated.

5. Any State shall be invited to be represented at a meeting of the Board at which a question directly interesting it is considered under this article.

6. Decisions of the Board under this article shall be taken by a two-thirds majority of the whole number of the Board.

#### ARTICLE 15

##### REPORTS OF THE BOARD

1. The Board shall prepare an annual report on its work and such additional reports as it considers necessary containing also an analysis of the estimates and statistical information at its disposal, and, in appropriate cases, an account of the explanations, if any, given by or required of Governments, together with any observations and recommendations which the Board desires to make. These reports shall be submitted to the Council through the Commission, which may make such comments as it sees fit.

2. The reports shall be communicated to the Parties and subsequently published by the Secretary-General. The Parties shall permit their unrestricted distribution.

#### ARTICLE 16

##### SECRETARIAT

The secretariat services of the Commission and the Board shall be furnished by the Secretary-General.

#### ARTICLE 17

##### SPECIAL ADMINISTRATION

The Parties shall maintain a special administration for the purpose of applying the provisions of this Convention.

## ARTICLE 18

## INFORMATION TO BE FURNISHED BY PARTIES TO THE SECRETARY-GENERAL

1. The Parties shall furnish the Secretary-General such information as the Commission may request as being necessary for the performance of its functions, and in particular:

(a) An annual report on the working of the Convention within each of their territories;

(b) The text of all laws and regulations from time to time promulgated in order to give effect to this Convention;

(c) Such particulars as the Commission shall determine concerning cases of illicit traffic, including particulars of each case of illicit traffic discovered which may be of importance, because of the light thrown on the source from which drugs are obtained for the illicit traffic, or because of quantities involved or the method employed by illicit traffickers; and

(d) The names and addresses of the governmental authorities empowered to issue export and import authorizations or certificates.

2. Parties shall furnish the information referred to in the preceding paragraph in such manner and by such dates and use such forms as the Commission may request.

## ARTICLE 19

## ESTIMATES OF DRUG REQUIREMENTS

1. The Parties shall furnish to the Board each year for each of their territories, in the manner and form prescribed by the Board, estimates on forms supplied by it in respect of the following matters:

(a) Quantities of drugs to be consumed for medical and scientific purposes;

(b) Quantities of drugs to be utilized for the manufacture of other drugs, of preparations in Schedule III, and of substances not covered by this Convention;

(c) Stocks of drugs to be held as at 31 December of the year to which the estimates relate; and

(d) Quantities of drugs necessary for addition to special stocks.

2. Subject to the deduction referred to in paragraph 3 of article 21, the total of the estimates for each territory and each drug shall consist of the sum of the amounts specified under sub-paragraphs (a), (b) and (d) of paragraph 1 of this article, with the addition of any amount required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in sub-paragraph (c) of paragraph 1.

3. Any State may during the year furnish supplementary estimates with an explanation of the circumstances necessitating such estimates.

4. The Parties shall inform the Board of the method used for determining quantities shown in the estimates and of any changes in the said method.

5. Subject to the deduction referred to in paragraph 3 of article 21, the estimates shall not be exceeded.

## ARTICLE 20

## STATISTICAL RETURNS TO BE FURNISHED TO THE BOARD

1. The Parties shall furnish to the Board for each of their territories, in the manner and form prescribed by the Board, statistical returns on forms supplied by it in respect of the following matters:

- (a) Production or manufacture of drugs;
- (b) Utilization of drugs for the manufacture of other drugs, of preparations in Schedule III and of substances not covered by this Convention, and utilization of poppy straw for the manufacture of drugs;
- (c) Consumption of drugs;
- (d) Imports and exports of drugs and poppy straw;
- (e) Seizures of drugs and disposal thereof; and
- (f) Stocks of drugs as a 31 December of the year to which the returns relate.

2. (a) The statistical returns in respect of the matters referred to in paragraph 1, except sub-paragraph (d), shall be prepared annually and shall be furnished to the Board not later than 30 June following the year to which they relate.

(b) The statistical returns in respect to the matters referred to in sub-paragraph (d) of paragraph 1 shall be prepared quarterly and shall be furnished to the Board within one month after the end of the quarter to which they relate.

3. In addition to the matters referred to in paragraph 1 of this article the Parties may as far as possible also furnish to the Board for each of their territories information in respect of areas (in hectares) cultivated for the production of opium.

4. The Parties are not required to furnish statistical returns respecting special stocks, but shall furnish separately returns respecting drugs imported into or procured within the country or territory for special purposes, as well as quantities of drugs withdrawn from special stocks to meet the requirements of the civilian population.

## ARTICLE 21

## LIMITATION OF MANUFACTURE AND IMPORTATION

1. The total of the quantities of each drug manufactured and imported by any country or territory in any one year shall not exceed the sum of the following:

- (a) The quantity consumed, within the limit of the relevant estimate, for medical and scientific purposes;
- (b) The quantity used, within the limit of the relevant estimate, for the manufacture of other drugs, of preparations in Schedule III, and of substances not covered by this Convention;
- (c) The quantity exported;
- (d) The quantity added to the stock for the purpose of bringing that stock up to the level specified in the relevant estimate; and
- (e) The quantity acquired within the limit of the relevant estimate for special purposes.

2. From the sum of the quantities specified in paragraph 1 there shall be deducted any quantity that has been seized and released

for licit use, as well as any quantity taken from special stocks for the requirements of the civilian population.

3. If the Board finds that the quantity manufactured and imported in any one year exceeds the sum of the quantities specified in paragraph 1, less any deductions required under paragraph 2 of this article, any excess so established and remaining at the end of the year shall, in the following year, be deducted from the quantity to be manufactured or imported and from the total of the estimates as defined in paragraph 2 of article 19.

4. (a) If it appears from the statistical returns on imports or exports (article 20) that the quantity exported to any country or territory exceeds the total of the estimates for that country or territory, as defined in paragraph 2 of article 19, with the addition of the amounts shown to have been exported, and after deduction of any excess as established in paragraph 3 of this article, the Board may notify this fact to States which, in the opinion of the Board, should be so informed;

(b) On receipt of such a notification, Parties shall not during the year in question authorize any further exports of the drug concerned to that country or territory, except:

(i) In the event of a supplementary estimate being furnished for that country or territory in respect both of any quantity over imported and of the additional quantity required, or

(ii) In exceptional cases where the export, in the opinion of the government of the exporting country, is essential for the treatment of the sick.

## ARTICLE 22

### SPECIAL PROVISION APPLICABLE TO CULTIVATION

Whenever the prevailing conditions in the country or a territory of a Party render the prohibition of the cultivation of the opium poppy, the coca bush or the cannabis plant the most suitable measure, in its opinion, for protecting the public health and welfare and preventing the diversion of drugs into the illicit traffic, the Party concerned shall prohibit cultivation.

## ARTICLE 23

### NATIONAL OPIUM AGENCIES

1. A Party that permits the cultivation of the opium poppy for the production of opium shall establish, if it has not already done so, and maintain, one or more government agencies (hereafter in this article referred to as the Agency) to carry out the functions required under this article.

2. Each such Party shall apply the following provisions to the cultivation of the opium poppy for the production of opium and to opium:

(a) The Agency shall designate the areas on which, and the plots of land on which, cultivation of the opium poppy for the purpose of producing opium shall be permitted.

(b) Only cultivators licensed by the Agency shall be authorized to engage in such cultivation.

(c) Each licence shall specify the extent of the land on which the cultivation is permitted.

(d) All cultivators of the opium poppy shall be required to deliver their total crops of opium to the Agency. The Agency shall purchase and take physical possession of such crops as soon as possible, but not later than four months after the end of the harvest.

(e) The Agency shall, in respect of opium, have the exclusive right of importing, exporting, wholesale trading and maintaining stocks other than those held by manufacturers of opium alkaloids, medicinal opium or opium preparations. Parties need not extend this exclusive right to medicinal opium and opium preparations.

3. The governmental functions referred to in paragraph 2 shall be discharged by a single government agency if the constitution of the Party concerned permits it.

## ARTICLE 24

### LIMITATION ON PRODUCTION OF OPIUM FOR INTERNATIONAL TRADE

1. (a) If any Party intends to initiate the production of opium or to increase existing production, it shall take account of the prevailing world need for opium in accordance with the estimates thereof published by the Board so that the production of opium by such Party does not result in over-production of opium in the world.

(b) A Party shall not permit the production of opium or increase the existing production thereof if in its opinion such production or increased production in its territory may result in illicit traffic in opium.

2. (a) Subject to paragraph 1, where a Party which as of 1 January 1961 was not Producing opium for export desires to export opium which it produces, in amounts not exceeding five tons annually, it shall notify the Board, furnishing with such notification information regarding:

(i) The controls in force as required by this Convention respecting the opium to be produced and exported; and

(ii) The name of the country or countries to which it expects to export such opium; and the Board may either approve such notification or may recommend to the Party that it not engage in the production of opium for export.

(b) Where a Party other than a Party referred to in paragraph 3 desires to produce opium for export in amounts exceeding five tons annually, it shall notify the Council, furnishing with such notification relevant information including:

(i) The estimated amounts to be produced for export;

(ii) The controls existing or proposed respecting the opium to be produced;

(iii) The name of the country or countries to which it expects to export such opium;

and the Council shall either approve the notification or may recommend to the Party that it not engage in the production of opium for export.

3. Notwithstanding the provisions of subparagraphs (a) and (b) of paragraph 2, a Party that during ten years immediately prior to 1 January 1961 exported opium which such country produced may continue to export opium which it produces.

4. (a) A Party shall not import opium from any country or territory except opium produced in the territory of:

(i) A Party referred to in paragraph 3;

(ii) A Party that has notified the Board as provided in subparagraph (a) of paragraph 2; or

(iii) A Party that has received the approval of the Council as provided in subparagraph (b) of paragraph 2.

(b) Notwithstanding subparagraph (a) of this paragraph, a Party may import opium produced by any country which produced and exported opium during the ten years prior to 1 January 1961 if such country has established and maintains a national control organ or agency for the purposes set out in article 23 and has in force an effective means of ensuring that the opium it produces is not diverted into the illicit traffic.

5. The provisions of this article do not prevent a Party:

(a) From producing opium sufficient for its own requirements; or

(b) From exporting opium seized in the illicit traffic, to another Party in accordance with the requirements of this Convention.

## ARTICLE 25

### CONTROL OF POPPY STRAW

1. A Party that permits the cultivation of the opium poppy for purposes other than the production of opium shall take all measures necessary to ensure:

(a) That opium is not produced from such opium poppies; and

(b) That the manufacture of drugs from poppy straw is adequately controlled.

2. The Parties shall apply to poppy straw the system of import certificates and export authorizations as provided in article 31, paragraphs 4 to 15.

3. The Parties shall furnish statistical information on the import and export of poppy straw as required for drugs under article 20, paragraphs 1 (d) and 2 (b).

## ARTICLE 26

### THE COCA BUSH AND COCA LEAVES

1. If a Party permits the cultivation of the coca bush, it shall apply thereto and to coca leaves the system of controls as provided in article 23 respecting the control of the opium poppy, but as regards paragraph 2 (d) of that article, the requirements imposed on the Agency therein referred to shall be only to take physical possession of the crops as soon as possible after the end of the harvest.

2. The Parties shall so far as possible enforce the uprooting of all coca bushes which grow wild. They shall destroy the coca bushes if illegally cultivated.

## ARTICLE 27

### ADDITIONAL PROVISIONS RELATING TO COCA LEAVES

1. The Parties may permit the use of coca leaves for the preparation of a flavouring agent, which shall not contain any alkaloids,

and, to the extent necessary for such use, may permit the production, import, export, trade in and possession of such leaves.

2. The Parties shall furnish separately estimates (article 19) and statistical information (article 20) in respect of coca leaves for preparation of the flavouring agent, except to the extent that the same coca leaves are used for the extraction of alkaloids and the flavouring agent, and so explained in the estimates and statistical information.

## ARTICLE 28

### CONTROL OF CANNABIS

1. If a Party permits the cultivation of the cannabis plant for the production of cannabis or cannabis resin, it shall apply thereto the system of controls as provided in article 23 respecting the control of the opium poppy.

2. This Convention shall not apply to the cultivation of the cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural purposes.

3. The Parties shall adopt such measures as may be necessary to prevent the misuse of, and illicit traffic in, the leaves of the cannabis plant

## ARTICLE 29

### MANUFACTURE

1. The Parties shall require that the manufacture of drugs be under licence except where such manufacture is carried out by a State enterprise or State enterprises.

2. The Parties shall:

(a) Control all persons and enterprises carrying on or engaged in the manufacture of drugs;

(b) Control under licence the establishments and premises in which such manufacture may take place; and

(c) Require that licensed manufacturers of drugs obtain periodical permits specifying the kinds and amounts of drugs which they shall be entitled to manufacture. A periodical permit, however, need not be required for preparations.

3. The Parties shall prevent the accumulation, in the possession of drug manufacturers, of quantities of drugs and poppy straw in excess of those required for the normal conduct of business, having regard to the prevailing market conditions.

## ARTICLE 30

### TRADE AND DISTRIBUTION

1. (a) The Parties shall require that the trade in and distribution of drugs be under licence except where such trade or distribution is carried out by a State enterprise or State enterprises.

(b) The Parties shall:

(i) Control all persons and enterprises carrying on or engaged in the trade in or distribution of drugs;

(ii) Control under licence the establishments and premises in which such trade or distribution may take place. The requirement of licensing need not apply to preparations.

(c) The provisions of sub-paragraphs (a) and (b) relating to licensing need not apply to persons duly authorized to perform and while performing therapeutic or scientific functions.

2. The Parties shall also:

(a) Prevent the accumulation in the possession of traders, distributors, State enterprises or duly authorized persons referred to above, of quantities of drugs and poppy straw in excess of those required for the normal conduct of business, having regard to the prevailing market conditions; and

(b) (i) Require medical prescriptions for the supply or dispensation of drugs to individuals. This requirement need not apply to such drugs as individuals may lawfully obtain, use, dispense or administer in connexion with their duly authorized therapeutic functions; and

(ii) If the Parties deem these measures necessary or desirable, require that prescriptions for drugs in Schedule I should be written on official forms to be issued in the form of counterfoil books by the competent governmental authorities or by authorized professional associations.

3. It is desirable that Parties require that written or printed offers of drugs, advertisements of every kind or descriptive literature relating to drugs and used for commercial purposes, interior wrappings of packages containing drugs, and labels under which drugs are offered for sale indicate the international nonproprietary name communicated by the World Health Organization.

4. If a Party considers such measure necessary or desirable, it shall require that the inner package containing a drug, or wrapping thereof shall bear a clearly visible double red band. The exterior wrapping of the package in which such a drug is contained shall not bear a double red band.

5. A Party shall require that the label under which a drug is offered for sale show the exact drug content by weight or percentage. This requirement of label information need not apply to a drug dispensed to an individual on medical prescription.

6. The provisions of paragraphs 2 and 5 need not apply to the retail trade in or retail distribution of drugs in Schedule II.

### ARTICLE 31

#### SPECIAL PROVISIONS RELATING TO INTERNATIONAL TRADE

1. The Parties shall not knowingly permit the export of drugs to any country or territory except:

(a) In accordance with the laws and regulations of that country or territory; and

(b) Within the limits of the total of the estimates for that country or territory, as defined in paragraph 2 of article 19, with the addition of the amounts intended to be reexported.

2. The Parties shall exercise in free ports and zones the same supervision and control as in other parts of their territories provided, however, that they may apply more drastic measures.

3. The Parties shall:



(a) Control under licence the import and export of drugs except where such import or export is carried out by a State enterprise or enterprises;

(b) Control all persons and enterprises carrying on or engaged in such import or export.

4. (a) Every Party permitting the import or export of drugs shall require a separate import or export authorization to be obtained for each such import or export whether it consists of one or more drugs.

(b) Such authorization shall state the name of the drug, the international non-proprietary name if any, the quantity to be imported or exported, and the name and address of the importer and exporter, and shall specify the period within which the importation or exportation must be effected.

(c) The export authorization shall also state the number and date of the import certificate paragraph 5 and the authority by whom it has been issued.

(d) The import authorization may allow an importation in more than one consignment.

5. Before issuing an export authorization the Parties shall require an import certificate, issued by the competent authorities of the importing country or territory and certifying that the importation of the drug or drugs referred to therein, is approved and such certificate shall be produced by the person or establishment applying for the export authorization. The Parties shall follow as closely as may be practicable the form of import certificate approved by the Commission.

6. A copy of the export authorization shall accompany each consignment, and the Government issuing the export authorization shall send a copy to the Government of the importing country or territory.

7. (a) The Government of the importing country or territory, when the importation has been effected or when the period fixed for the importation has expired, shall return the export authorization, with an endorsement to that effect, to the Government of the exporting country or territory.

(b) The endorsement shall specify the amount actually imported.

(c) If a lesser quantity than that specified in the export authorization is actually exported, the quantity actually exported shall be stated by the competent authorities on the export authorization and on any official copy thereof.

8. Exports of consignments to a post office box, or to a bank to the account of a party other than the party named in the export authorization, shall be prohibited.

9. Exports of consignments to a bonded warehouse are prohibited unless the government of the importing country certifies on the import certificate, produced by the person or establishment applying for the export authorization, that it has approved the importation for the purpose of being placed in a bonded warehouse. In such case the export authorization shall specify that the constituent is exported for such purpose. Each withdrawal from the bonded warehouse shall require a permit from the authorities leaving jurisdiction over the warehouse and, in the case of a foreign destination

shall be treated as if it were a new export within the meaning of this Convention.

10. Consignments of drugs entering or leaving the territory of a Party not accompanied by an export authorization shall be detained by the competent authorities.

11. A Party shall not permit any drugs consigned to another country to pass through its territory, whether or not the consignment is removed from the conveyance in which it is carried, unless a copy of the export authorization for such consignment is produced to the competent authorities of such Party.

12. The competent authorities of any country or territory through which a consignment of drugs is permitted to pass shall take all due measures to prevent the diversion of the consignment to a destination other than that named in the accompanying copy of the export authorization unless the Government of that country or territory through which the consignment is passing authorizes the diversion. The Government of the country or territory of transit shall treat any requested diversion as if the diversion were an export from the country or territory of transit to the country or territory of new destination. If the diversion is authorized, the provisions of paragraph 7 (a) and (b) shall also apply between the country or territory of transit and the country or territory which originally exported the consignment.

13. No consignment of drugs while in transit, or whilst being stored in a bonded warehouse, may be subjected to any process which would change the nature of the drugs in question. The packing may not be altered without the permission of the competent authorities.

14. The provisions of paragraphs 11 to 13 relating to the passage of drugs through the territory of a Party do not apply where the consignment in question is transported by aircraft which does not land in the country or territory of transit. If the aircraft lands in any such country or territory, those provisions shall be applied so far as circumstances require.

15. The provisions of this article are without prejudice to the provisions of any international agreements which limit the control which may be exercised by any of the Parties over drugs in transit.

16. Nothing in this article other than paragraphs 1 (a) and 2 need apply in the case of preparations in Schedule III.

#### ARTICLE 32

##### SPECIAL PROVISIONS CONCERNING THE CARRIAGE OF DRUGS IN FIRST AID KITS OF SHIPS OR AIRCRAFT ENGAGED IN INTERNATIONAL TRAFFIC

1. The international carriage by ships or aircraft of such limited amounts of drugs as may be needed during their journey or voyage for first-aid purposes or emergency cases shall not be considered to be import, export or passage through a country within the meaning of this Convention.

2. Appropriate safeguards shall be taken by the country of registry to prevent the improper use of the drugs referred to in paragraph 1 or their diversion for illicit purposes. The Commission, in consultation with the appropriate international organizations, shall recommend such safeguards.

3. Drugs carried by ships or aircraft in accordance with paragraph I shall be subject to the laws, regulations, permits and licences of the country of registry, without prejudice to any rights of the competent local authorities to carry out checks, inspections and other control measures on board ships or aircraft. The administration of such drugs in the case of emergency shall not be considered a violation of the requirements of article 30, paragraph 2 (b).

#### ARTICLE 33

##### POSSESSION OF DRUGS

The Parties shall not permit the possession of drugs except under legal authority.

#### ARTICLE 34

##### PLEASURES OF SUPERVISION AND INSPECTION

The Parties shall require:

(a) That all persons who obtain licences as provided in accordance with this Convention, or who have managerial or supervisory positions in a State enterprise established in accordance with this Convention, shall have adequate qualifications for the effective and faithful execution of the provisions of such laws and regulations as are enacted in pursuance thereof; and

(b) That governmental authorities, manufacturers, traders, scientists, scientific institutions and hospitals keep such records as will show the quantities of each drug manufactured and of each individual acquisition and disposal of drugs. Such records shall respectively be preserved for a period of not less than two years. Where counterfoil books (article 30, paragraph 2 (b)) of official prescriptions are used, such books including the counterfoils shall also be kept for a period of not less than two years.

#### ARTICLE 35

##### ACTION AGAINST THE ILLICIT TRAFFIC

Having due regard to their constitutional, legal and administrative systems, the Parties shall:

(a) Make arrangements at the national level for co-ordination of preventive and repressive action against the illicit traffic; to this end they may usefully designate an appropriate agency responsible for such co-ordination;

(b) Assist each other in the campaign against the illicit traffic in narcotic drugs;

(c) Co-operate closely with each other and with the competent international organizations of which they are members, with a view to maintaining a coordinated campaign against the illicit traffic;

(d) Ensure that international co-operation between the appropriate agencies be conducted in an expeditious manner; and

(e) Ensure that where legal papers are transmitted internationally for the purposes of a prosecution, the transmittal be effected in an expeditious manner to the bodies designated by the Parties; this requirement shall be without prejudice to the right of a Party

to require that legal papers be sent to it through the diplomatic channel.

## ARTICLE 36

### PENAL PROVISIONS

1. Subject to its constitutional limitations, each Party shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.

2. Subject to the constitutional limitations of a Party, its legal system and domestic law,

(a) (i) Each of the offences enumerated in paragraph 1, if committed in different countries, shall be considered as a distinct offence;

(ii) Intentional participation in a conspiracy to commit and attempts to commit, any of such offences, and preparatory acts and financial operations in connexion with the offences referred to in this article, shall be punishable offences as provided in paragraph 1;

(iii) Foreign convictions for such offences shall be taken into account for the purpose of establishing recidivism; and

(iv) Serious offences heretofore referred to committed either by nationals or by foreigners shall be prosecuted by the Party in whose territory the offence was committed, or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the Party to which application is made, and if such offender has not already been prosecuted and judgement given.

(b) It is desirable that the offences referred to in paragraph 1 and paragraph 2 (a) (ii) be included as extradition crimes in any extradition treaty which has been or may hereafter be concluded between any of the Parties, and, as between any of the Parties which do not make extradition conditional on the existence of a treaty or on reciprocity, be recognized as extradition crimes; provided that extradition shall be granted in conformity with the law of the Party to which application is made, and that the Party shall have the right to refuse to effect the arrest or grant the extradition in cases where the competent authorities consider that the offence is not sufficiently serious.

3. The provisions of this article shall be subject to the provisions of the criminal law of the Party concerned on questions of jurisdiction.

4. Nothing contained in this article shall affect the principle that the offences to which it refers shall be defined, prosecuted and punished in conformity with the domestic law of a Party.

## ARTICLE 37

## SEIZURE AND CONFISCATION

Any drugs, substances and equipment used in or intended for the commission of any of the offences, referred to in article 36, shall be liable to seizure and confiscation.

## ARTICLE 38

## TREATMENT OF DRUG ADDICTS

1. The Parties shall give special attention to the provision of facilities for the medical treatment, care and rehabilitation of drug addicts.

2. If a Party has a serious problem of drug addiction and its economic resources permit, it is desirable that it establish adequate facilities for the effective treatment of drug addicts.

## ARTICLE 39

APPLICATION OF STRICTER NATIONAL CONTROL MEASURES THAN  
THOSE REQUIRED BY THIS CONVENTION

Notwithstanding anything contained in this Convention, a Party shall not be, or be deemed to be, precluded from adopting measures of control more strict or severe than those provided by this Convention and in particular from requiring, that preparations in Schedule III or drugs in Schedule II be subject to all or such of the measures of control applicable to drugs in Schedule I as in its opinion is necessary or desirable for the protection of the public health or welfare.

## ARTICLE 40

LANGUAGES OF THE CONVENTION AND PROCEDURE FOR SIGNATURE,  
RATIFICATION AND ACCESSION

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be open for signature until 1 August 1961 on behalf of any Member of the United Nations, of any non-member State which is a Party to the Statute of the International Court of Justice or member of a specialized agency of the United Nations, and also of any other State which the Council may invite to become a Party.

2. This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General.

3. This Convention shall be open after 1 August 1961 for accession by the States referred to in paragraph 1. The instruments of accession shall be deposited with the Secretary-General.

## ARTICLE 41

## ENTRY INTO FORCE

1. This Convention shall come into force on the thirtieth day following the date on which the fortieth instrument of ratification or accession is deposited in accordance with article 40.

2. In respect of any other State depositing an instrument of ratification or accession after the date of deposit of the said fortieth instrument, this Convention shall come into force on the thirtieth day after the deposit by that State, of its instrument of ratification or accession.

## ARTICLE 42

### TERRITORIAL APPLICATION

This Convention shall apply to all non-metropolitan territories for the international relations of which any Party is responsible, except where the previous consent of such a territory is required by the Constitution of the Party or of the territory concerned, or required by custom. In such case the Party shall endeavor to secure the needed consent of the territory within the shortest period possible, and when that consent is obtained the Party shall notify the Secretary-General. This Convention shall apply to the territory or territories named in such notification from the date of its receipt by the Secretary-General. In those cases where the previous consent of the non-metropolitan territory is not required, the Party concerned shall at the time of signature, ratification or accession, declare the non-metropolitan territory or territories to which this Convention applies.

## ARTICLE 43

### TERRITORIES FOR THE PURPOSES OF ARTICLES 19, 20, 21, AND 31

1. Any Party may notify the Secretary-General that, for the purposes of articles 19, 20, 21 and 31, one of its territories is divided into two or more territories, or that two or more of its territories are consolidated into a single territory.

2. Two or more Parties may notify the Secretary-General that, as the result of the establishment of a customs union between them, those Parties constitute a single territory for the purposes of articles 19, 20, 21 and 1.

3. Any notification under paragraph or 2 above shall take effect on 1 January of the year following the year in which the notification was made.

## ARTICLE 44

### TERMINATION OF PREVIOUS INTERNATIONAL TREATIES

1. The provisions of this Convention, upon its coming into force, shall, as between Parties hereto, terminate and replace the provisions of the following treaties:

(a) International Opium Convention, signed at The Hague on 23 January 1912;<sup>1</sup>

(b) Agreement concerning the manufacture of, Internal Trade in and Use of Prepared Opium, signed at Geneva on 11 February 1925;<sup>2</sup>

<sup>1</sup>TS 612; 38 Stat. 1912.

<sup>2</sup>51 LNTS 337.

(c) International Opium Convention, signed at Geneva on 19 February 1925;<sup>3</sup>

(d) Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, signed at Geneva on 13 July 1931;<sup>4</sup>

(e) Agreement for the Control of Opium Smoking in the Far East, signed at Bangkok on 27 November 1931;<sup>5</sup>

(f) Protocol signed at Lake Success on 11 December 1946,<sup>6</sup> amending the Agreements, Conventions and Protocols on Narcotic Drugs concluded at The Hague on 23 January 1912, at Geneva on 11 February 1925 and 19 February 1925 and 13 July 1931, at Bangkok on 27 November 1931 and at Geneva on 26 June 1936,<sup>7</sup> except as it affects the last-named Convention;

(g) The Conventions and Agreements referred to in sub-paragraphs (a) to (e) as amended by the protocol of 1946 referred to in sub-paragraph (f);

(h) Protocol signed at Paris on 19 November 1948<sup>8</sup> Bringing under International Control Drugs outside the Scope of the Convention of 13 July 1931 for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, as amended by the Protocol signed at Lake Success on 11 December 1946;

(i) Protocol for Limiting and Regulating the Cultivation of the Poppy Plant, the Production of, International and Wholesale Trade in, and Use of Opium, signed at New York on 23 June 1953,<sup>9</sup> should that Protocol have come into force.

2. Upon the coming into force of this Convention, article 9 of the Convention for the Suppression of the Illicit Traffic in Dangerous Drugs, signed at Geneva on 26 June 1936, shall, between the Parties thereto which are also Parties to this Convention, be terminated, and shall be replaced by paragraph 2 (b) of article 36 of this Convention; provided that such a Party may by notification to the Secretary-General continue in force the said article 9.

## ARTICLE 45

### TRANSITIONAL PROVISIONS

1. The functions of the Board provided for in article 9 shall, as from the date of the coming into force of this Convention (article 41, paragraph 1), be provisionally carried out by the Permanent Central Board constituted under chapter VI of the Convention referred to in article 44 (c) as amended, and by the Supervisory Body constituted under chapter II of the Convention referred to in article 44 (d) as amended, as such functions may respectively require.

2. The Council shall fix the date on which the new Board referred to in article 9 shall enter upon its duties. As from that date that Board shall, with respect to the States Parties to the treaties enumerated in article 44 which are not Parties to this Convention, undertake the functions of the Permanent Central Board and of the Supervisory Body referred to in paragraph 1.

<sup>3</sup>81 LNTS 317.

<sup>4</sup>TS 863; 48 Stat. 1543.

<sup>5</sup>177 LNTS 373.

<sup>6</sup>TIAS 1671, 1859; 61 Stat. (2) 2230, 62 Stat. (2) 1796.

<sup>7</sup>198 LNTS 299.

<sup>8</sup>TIAS 2308; 2 U ST 1629.

<sup>9</sup>TIA S 5273; 14 U ST 10.

## ARTICLE 46

## DENUNCIATION

1. After the expiry of two years from the date of the coming into force of this Convention (article 41, paragraph 1) any Party may, on its own behalf or on behalf of a territory for which it has international responsibility, and which has withdrawn its consent given in accordance with article 42, denounce this Convention by an instrument in writing deposited with the Secretary-General.

2. The denunciation, if received by the Secretary-General on or before the first day of July in any year, shall take effect on the first day of January in the succeeding year, and, if received after the first day of July, shall take effect as if it had been received on or before the first day of July in the succeeding year.

3. This Convention shall be terminated if, as a result of denunciations made in accordance with paragraph 1, the conditions for its coming into force as laid down in article 41, paragraph 1, cease to exist.

## ARTICLE 47

## AMENDMENTS

1. Any Party may propose an amendment to this Convention. The text of any such amendment and the reasons therefor shall be communicated to the Secretary-General who shall communicate them to the Parties and to the Council. The Council may decide either:

(a) That a conference shall be called in accordance with Article 62, paragraph 4, of the Charter of the United Nations<sup>10</sup> to consider the proposed amendment; or

(b) That the Parties shall be asked whether they accept the proposed amendment and also asked to submit to the Council any comments on the proposal.

2. If a proposed amendment circulated under paragraph 1 (b) of this article has not been rejected by any Party within eighteen months after it has been circulated, it shall thereupon enter into force. If however a proposed amendment is rejected by any Party, the Council may decide, in the light of comments received from Parties, whether a conference shall be called to consider such amendment.

## ARTICLE 48

## DISPUTES

1. If there should arise between two or more Parties a dispute relating to the interpretation or application of this Convention, the said Parties shall consult together with a view to the settlement of the dispute by negotiation, investigation, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their own choice.

<sup>10</sup>TS 993; 59 Stat. 1047.



2. Any such dispute which cannot be settled in the manner prescribed shall be referred to the International Court of Justice for decision.

## ARTICLE 49

### TRANSITIONAL RESERVATIONS

1. A Party may at the time of signature, ratification or accession reserve the right to permit temporarily in any one of its territories:

- (a) The quasi-medical use of opium;
- (b) Opium smoking;
- (c) Coca leaf chewing;
- (d) The use of cannabis, cannabis resin, extracts and tinctures of cannabis for non-medical purposes; and
- (e) The production and manufacture of and trade in the drugs referred to under (a) to (d) for the purposes mentioned therein.

2. The reservations under paragraph 1 shall be subject to the following restrictions:

(a) The activities mentioned in paragraph 1 may be authorized only to the extent that they were traditional in the territories in respect of which the reservation is made, and were there permitted on 1 January 1961.

(b) No export of the drugs referred to in paragraph 1 for the purposes mentioned therein may be permitted to a non-party or to a territory to which this Convention does not apply under article 42.

(c) Only such persons may be permitted to smoke opium as were registered by the competent authorities to this effect on 1 January 1964.

(d) The quasi-medical use of opium must be abolished within 15 years from the coming into force of this Convention as provided in paragraph 1 of article 41.

(e) Coca leaf chewing must be abolished within twenty-five years from the coming into force of this Convention as provided in paragraph 1 of article 41.

(f) The use of cannabis for other than medical and scientific purposes must be discontinued as soon as possible but in any case within twenty-five years from the coming into force of this Convention as provided in paragraph 1 of article 41.

(g) The production and manufacture of and trade in the drugs referred to in paragraph 1 for any of the uses mentioned therein must be reduced and finally abolished simultaneously with the reduction and abolition of such uses.

3. A Party making a reservation under paragraph 1 shall:

(a) Include in the annual report to be furnished to the Secretary-General, in accordance with article 18, paragraph 1 (a), an account of the progress made in the preceding year towards the abolition of the use, production, manufacture or trade referred to under paragraph 1; and

(b) Furnish to the Board separate estimates (article 19) and statistical returns (article 20) in respect of the reserved activities in the manner and form prescribed by the Board.

4. (a) If a Party which makes a reservation under paragraph 1 fails to furnish:

(i) The report referred to in paragraph 3 (a) within six months after the end of the year to which the information relates;

(ii) The estimates referred to in paragraph 3 (b) within three months after the date fixed for that purpose by the Board in accordance with article 12, paragraph 1;

(iii) The statistics referred to in paragraph 3 (b) within three months after the date on which they are due in accordance with article 20, paragraph 2,

the Board or the Secretary-General, as the case may be, shall send to the Party concerned a notification of the delay, and shall request such information within a period of three months after the receipt of that notification.

(b) If the Party fails to comply within this period with the request of the Board or the Secretary-General, the reservation in question made under paragraph 1 shall cease to be effective.

5. A State which has made reservations may at any time by notification in writing withdraw all or part of its reservations.

## ARTICLE 50

### OTHER RESERVATIONS

1. No reservations other than those made in accordance with article 49 or with the following Paragraphs shall be permitted.

2. Any State may at the time of signature ratification, or accession make reservations in respect of the following provisions of this Convention: article 12, paragraphs 2 and 3; article 13, paragraph 2; article 14, paragraphs 1 and 2; article 31, paragraph 1 (b), and article 48.

3. A State which desires to become a Party but wishes to be authorized to make reservations other than those made in accordance with paragraph 2 of this article or with article 49 may inform the Secretary-General of such intention. Unless by the end of twelve months after the date of the Secretary-General's communication of the reservation concerned, this reservation has been objected to by one third of the States that have ratified or acceded to this Convention before the end of that period, it shall be deemed to be permitted, it being understood however that States which have objected to the reservation need not assume towards the reserving State any legal obligation under this Convention which is affected by the reservation.

4. A State which has made reservations may at any time by notification in writing withdraw all or part of its reservations.

## ARTICLE 51

### NOTIFICATIONS

The Secretary-General shall notify to all the States referred to in paragraph 1 of article 40:

(a) Signatures, ratifications and accessions in accordance with article 40;

(b) The date upon which this Convention enters into force in accordance with article 41;

(c) Denunciations in accordance with article 46; and

(d) Declarations and notifications under articles 42, 43, 47, 49 and 50.

IN WITNESS THEREOF, the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments:

DONE at New York, this thirtieth day of March one thousand nine hundred and sixty one, in a single copy, which shall be deposited in the archives of the United Nations, and of which certified true copies shall be transmitted to all the members of the United Nations and to the other States referred to in article 40, paragraph 1.

# SCHEDULES<sup>11</sup>

## LIST OF DRUGS INCLUDED IN SCHEDULE 1

ACEDTYLMENTHADOL diphenylheptane)	(3-acetoxy-6-dimethylamino-4,4-
ALLYLPRODINE propionoxypiperidine)	(3-allyl-1-methyl-4-phenyl-4-
ALPHACETYLMETHADOL 4,4- diphenylheptane)	(alpha-3-acetoxy-6-dimethylamino-
ALPHAMEPRODINE propionoxypiperidine)	(alpha-3-ethyl-1-methyl-4-phenyl-4-
ALPHAMETHADOL heptanol)	(alpha-6-dimethylamino-4,4-diphenyl-3-
ALPHAPRODINE propionoxypiperidine)	(alpha-1,3-dimethyl-4-phenyl-4-
ANILERIDINE (1- <i>para</i> -aminophenethyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)	
BENZETHIDINE (1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)	
BENZYL MORPHINE (3-benzylmorphine)	
BETACETYLMETHADOL diphenylheptane)	(beta-3-acetoxy-6-dimethylamino-4,4-
BETAMEPRODINE propionoxypiperidine)	(beta-3-ethyl-1-menthyl-4-phenyl-4-
BETAMETHADOL heptanol)	(beta-6-dimethylamino-4,4-diphenyl-3-
BETAPRODINE propionoxypiperidine)	(beta-1,3-dimethyl-4-phenyl-4-
CANNABIL AND CANNABIS RESIN AND EXTRACTS AND TINCTURES OF CANNABIS	
CLONITAZENE nitrobenzimidazole)	(2- <i>para</i> -chlorbenzy-1-diethylaminoethyl-5-
COCA LEAF	
COCAINE (methyl ester of benzoylecgonine)	
CONCENTRATE OF POPPY STRAW (the material arising when poppy straw has entered into a process for the concentration of its alkaloids, when such material is made available in trade)	
DESMORPHINE (dihydrodeoxymorphine)	
DEXTROMORAMIDE pyrrolidinyl) butyl] morpholine)	((+)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-

<sup>11</sup> For amendments to the Schedules, see *post*, pp. 1585-1588.

DIAMPROMIDE	(N-(2-methylphenethylamino)	propyl
propionanilide)		
DIETHYLTHIAMBUTENE	(3-diethylamino-1,1-di-(2'-thienyl)-1-butene)	
DIHYDROMORPHINE		
DIMENOXADOL	(2-dimethylaminoethyl-1-ethoxy-1,1-diphenylacetate)	
DIMEPHEPTANOL	(6-dimethylamino-4,4-diphenyl-3-heptanol)	
DIMETHYLTHIAMBUTENE	(3-dimethylamino-1,1-di-(2'-thienyl)-1-butene)	
DIOXAPHETYL	BUTYRATE	(ethyl 4-morpholino-2,2-diphenylbutyrate)
DIPHENOXYLATE	(1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)	
DIPIANONE	(4,4-diphenyl-6-piperidine-3-heptanone)	
ECGONINE, its esters and derivatives which are convertible to ecgonine and cocaine		
ETHYLMETHYLTHIAMBUTENE	(3-ethylmethylamino-1,1-di-(2'-thienyl)-1-butene)	
ETONITAZENE	(1-diethylaminoethyl-2- <i>para</i> -ethoxybenzyl-5-nitrobenzimidazole)	
ETOXERIDINE	(1-[2-(2-hydroxyethoxy) ethyl]-4-phenylpiperidine-4-carboxylic acid ethyl ester)	
FURETHIDINE	(1-(2-tetrahydrofurfuryloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)	
HEROIN (diacetylmorphine)		
HYDROCODONE (dihydrocodeinone)		
HYDROMORPHINOL (14-hydroxydihydromorphine)		
HYDROMORPHONE (dihydromorphinone)		
HYDROXPETHIDINE	(4- <i>meta</i> -hydroxyphenyl-1-methylpiperidine-4-carboxylic acid ethyl ester)	
ISOMETHADONE	(6-dimethylamino-5-methyl-4,4-diphenyl-3-hexanone)	
KETOBEMIDONE	(4- <i>meta</i> -hydroxyphenyl-1-methyl-4-propionylpiperidine)	
LEVOMETHORPHAN <sup>12</sup>	((-)-3-methoxy-N-methylmorphinan)	
LEVOMORAMIDE	((-)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine)	
LEVOPHENACYLMORPHAN	((-)-3-hydroxy-n-phenacylmorphinan)	
LEVORPHANOL*	((-)-3-hydroxy-N-methylmorphinan)	
METAZOCINE	(2'-hydroxy-2,5,9-trimethyl-6,7-henzomorphinan)	
METHADONE	(6-dimethylamino-4,4-diphenyl-3-heptanone)	
METHYLDESORPHINE	(6-methyl-delta 6-deoxymorphine)	
METHYLDIHYDROMORPHINE	(6-methyldihydromorphine)	
1-Methyl-4-phenylpiperidine-4-carboxylic acid		
METOPON	(5-methyldihydromorphinone)	
MORPHERIDINE	(1-(2-morpholinoethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)	
MORPHINE		

<sup>12</sup> Dextromethorphan ((+)-3-methoxy-N-methylmorphinan) and dextrorphan ((+)-3-H-droxy-N-methylmorphinan) are specifically excluded from this Schedule.

MORPHINE METHOBROMIDE and other pentavalent nitrogen morphine derivatives

MORPHINE-N-OXIDE

MYROPHINE (myristylbenzylmorphine)

NICOMORPHINE (3,6-dinicotinylmorphine)

NORLEVORPHANOL ((-)-3-hydroxymorphinan)

NORMETHADONE (6-dimethylamino-4,4-diphenyl-3-hexanone)

NORMORPHINE (demethylmorphine)

OPIUM

OXYCODONE (14-hydroxydihydrocodeinone)

OXYMORPHONE (14-hydroxydihydrocodeinone)

PETHIDINE (1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)

PHENADOXONE (6-morpholino-4,4-diphenyl-3-heptanone)

PHENAMPROMIDE 9N-(1-methyl-2-piperidinoethyl) propionanilide)

PHENAZOCINE (2'-hydroxy-5,9-dimethyl-2-phenethyl-6,7-benzomorphan)

PHENOMORPHAN (3-hydroxy-N-phenethylmorphinan)

PHENOPERIDINE (1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

PIMINODINE (4-phenyl-1-(3-phenylaminopropyl) piperidine-4-carboxylic acid ethyl ester)

PROHEPTAZINE (1,3-dimethyl-4-phenyl-4-propionoxazacycloheptane)

PROPERIDINE (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester)

RACEMETHORPHAN ((+)-3-methoxy-N-methylmorphinan)

RACEMORAMIDE ((+)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine)

RACEMORPHAN ((+)-3-hydroxy-N-methylmorphinan)

THEBACON (acetyldihydrocodeinone)

THEBAINE

TRIMEPERIDINE (1,2,5-trimethyl-4-phenyl-4-propionoxypiperidine); and

The isomers, unless specifically excepted, of the drugs in this Schedule whenever the existence of such isomers is possible within the specific chemical designation;

The esters and ethers, unless appearing in another Schedule, of the drugs in this Schedule whenever the existence of such esters or ethers is possible;

The salts of the drugs listed in this Schedule, including the salts of esters, ethers and isomers as provided above whenever the existence of such salts is possible.

#### LIST OF DRUGS INCLUDED IN SCHEDULE II

ACETYLDIHYDROCODEINE

CODEINE (3-methylmorphine)

DEXTROPROPOXYPHENE ((+)-4-dimethylamino-3-methyl-1,2-diphenyl-2-propionoxy-butane)

DIHYDROCODEINE

ETHYLMORPHINE (3-ethylmorphine)

NORCODEINE (N-demethylcodeine)

PHOLCODINE (morpholinylethylmorphine); and

The isomers, unless specifically excepted, of the drugs in this Schedule whenever the existence of such isomers is possible within the specific chemical designation;

The salts of the drugs listed in this Schedule, including the salts of the isomers as provided above whenever the existence of such salts is possible.

#### LIST OF PREPARATIONS INCLUDED IN SCHEDULE III

1. Preparations of:  
Acetyldihydrocodeine,  
Codeine,  
Dextropropoxyphene,  
Dihydrocodeine,  
Ethylmorphine,  
Norcodeine, and  
Pholcodine

when

(a) Compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the drug cannot be recovered by readily applicable means or in a yield which would constitute a risk to public health; and

(b) Containing not more than 100 milligrammes of the drug per dosage unit and with a concentration of not more than 2.5 per cent in undivided preparations.

2. Preparations of cocaine containing not more than 0.1 per cent of cocaine calculated as cocaine base and preparations of opium or morphine containing not more than 0.2 per cent of morphine calculated as anhydrous morphine base and compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the drug cannot be recovered by readily applicable means or in a yield which would constitute a risk to public health.

3. Solid dose preparations of diphenoxylate containing not more than 2.5 milligrammes of diphenoxylate calculated as base and not less than 25 microgrammes of atropine sulphate per dosage unit.

4. *Pulvis ipecacuanhae et opii compositus*

10 per cent opium in powder

10 per cent ipecacuanha root, in powder  
well mixed with

80 per cent of any other powdered ingredient containing no drug.

5. Preparations conforming to any of the formulae listed in this Schedule and mixtures of such preparations with any material which contains not drug.

#### LIST OF DRUGS INCLUDED IN SCHEDULE IV

CANNABIS and CANNABIS RESIN

DESOMORPHINE (dihydrodeoxymorphine)

HEROIN (diacetylmorphine)

KETOBEMIDONE (4-*meta*-hydroxyphenyl-1-methyl-4-propionylpiperidine); and

The salts of the drugs listed in this Schedule whenever the formation of such salts is possible

1. The Secretary-General of the United Nations presents his compliments to the Secretary of State and with reference to the Secretary-General's circular note, reference C.N.212.1964.TREATIES-17 of 20 November 1964, advising that the Single Convention on Narcotic Drugs, 1961, will come into force on 13 December 1964, has the honour to communicate the attached amendments to the Schedules of the Single Convention on Narcotic Drugs, 1961. These amendments were adopted by the Commission on Narcotic Drugs of the Economic and Social Council at its nineteenth session (see Official Records of the Economic and Social Council Thirty-seventh Session, document E/3893, paragraphs 157 and 158), pursuant to recommendations by the World Health Organization.

2. It was understood that in accordance with Article 3, paragraph 7, of the 1961 Convention, this decision should be communicated as soon as the Convention comes into force by the Secretary-General to all States Members of the United Nations, to Non-Member States Parties to this Convention, to the World Health Organization and to the Permanent Central Opium Board and Drug Supervisory Body, and that the decision would become effective with respect to each Party on the date of its receipt of such communication. The Parties would thereupon take such action as might be required under the Convention.

#### SCHEDULE I

The following items should be added:

Fentanyl [1-phenethyl-4-N-propionylanilino]piperidine];  
 Methadone-intermediate [4-cyano-2-dimethylamino-4,4-diphenylbutane];  
 Moramide-intermediate [2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid];  
 Noracymethadol [(+)-alpha-3-acetoxy-6-methylamino-4,4-diphenylheptane];  
 Norpipanone [4,4-diphenyl-6-piperidine-3-hexanone];  
 Pethidine-intermediate-A [4-cyano-1-methyl-4-phenylpiperidine];  
 Pethidine-intermediate-B [4-phenylpiperidine-4-carboxylic acid ethyl ester];

#### SCHEDULE II

Nicocodine (6-nicotinylcodeine) should be added.

Dextropropoxyphene [(+)-4-dimethylamino-3-methyl-1,2-diphenyl-2-propionoxybutane] should be deleted.

#### SCHEDULE III

Of the substance list in section (1), dextropropoxyphene should be deleted.

The Secretary-General of the United Nations presents his compliments to the Secretary of State and has the honour to communicate, in accordance with article 3, paragraph 7, of the Single Convention on Narcotic Drugs, 1961, an amendment to Schedule I of this Convention, namely, the addition to that Schedule of the following substance:

1-(3-cyano-3,3-diphenylpropyl)-4-(1-piperidino) piperidine-4-carboxylic acid amide (the proposed international non-proprietary name of which is piritramide) and its salts.

This amendment was adopted by the Commission on Narcotic Drugs of the Economic and Social Council at its twentieth session (document E/4140, paragraph 54).

The attention of Governments is drawn to article 3, paragraph 7, of the Convention under which such decision of the Commission shall become effective with respect to each Party on the date of its receipt of such communication, and the Parties shall thereupon take such action as may be required under this Convention.

The Secretary-General of the United Nations presents his compliments to the Secretary of State of the United States of America and with reference to his note dated 17 June 1966, (NAR/CL.5/1966) has the honour to state that the Commission on Narcotic Drugs has decided that the substances M.183 (the proposed international non-proprietary name of which is acetorphine) and M.99 (the proposed international non-proprietary name of which is etorphine) should be added to Schedule I of the Single Convention on Narcotic Drugs, 1961, and that the substance M.285 (the proposed international non-proprietary name of which is cyprenorphine) should not be placed on any of the Schedules of the 1961 Convention.

The decision of the Commission was taken pursuant to the recommendations of the World Health Organization under Article 3 of the 1961 Convention and in accordance with the procedure adopted by the Commission at its twentieth session (Official Records of the Economic and Social Council, Fortieth session, Supplement No. 2; document E/4140, Resolution 1 (XX)).

The attention of governments is drawn to Article 3, paragraph 7, of the 1961 Convention by which such decision "shall become effective with respect to each Party on the date of its receipt of such communication, and the Parties shall thereupon take such action as may be required under this Convention".

The Secretary-General of the United Nations presents his compliments to the Secretary of State of the United States of America and has the honour to communicate the following amendments to Schedule III of the Single Convention on Narcotic Drugs, 1961, which were adopted by the Commission on Narcotic Drugs of the Economic and Social Council at its twenty-first session, 5-21 December 1966, following upon recommendations made by the World Health Organization:

#### LIST OF PREPARATIONS INCLUDED IN SCHEDULE III

1. Section 1 (a) and (b) are deleted and replaced by the following: "When compounded with one or more other ingredients and containing not more than 100 milligrams of the drug per dosage unit and with a concentration of not more than 2.5 percent in undivided preparations".

2. In section 2 delete the words "in such a way that the preparation has no, or a negligible risk of abuse, and", so that the paragraph reads as follows: "Preparations of cocaine containing not more than 0.1 per cent of cocaine calculated as cocaine base and preparations of opium or morphine containing not more than 0.2



per cent of morphine calculated as anhydrous morphine base and compounded with one or more other ingredients in such a way that the drug cannot be recovered by readily applicable means or in a yield which would constitute a risk to public health."

3. In section 3 delete the words "Solid dose".

The Secretary-General has the honour to invite attention to Article 3, paragraph 7 of the 1961 Convention whereby the above decisions would become effective with respect to each Party on the date of its receipt of such communication, and the Parties would thereupon take such action as might be required under the Convention.

Whereas during the period the Convention was open for signature it was signed in behalf of a number of States, not including the United States of America, and remained open for accession;

Whereas the Senate of the United States of America by its resolution of May 8, 1967, two-thirds of the Senators present concurring therein, did advise and consent to accession to the Convention;

Whereas accession to the Convention was duly approved by the President of the United States of America on May 15, 1967, in pursuance of the advice and consent of the Senate;

Whereas it is provided in Article 41 of the Convention that the Convention shall come into force on the thirtieth day following the date of deposit with the Secretary General of the United Nations of the fortieth instrument of ratification or accession with respect to the States which deposited such instruments and that thereafter the Convention shall come into force with respect to any other State depositing an instrument of ratification or accession on the thirtieth day following the deposit of such instrument;

Whereas instruments of ratification or accession were deposited with the Secretary General of the United Nation by the following Governments on the dates indicated: Canada on October 11, 1961; Thailand on October 31, 1961; Morocco on December 4, 1961; Cameroon on January 15, 1962; Korea on February 13, 1962; Kuwait on April 16, 1962; Dahomey on April 27, 1962; Ivory Coast on July 10, 1962; Syria on August 22, 1962; Iraq on August 22, 1962; Cuba on August 30, 1962; Jordan on November 15, 1962; Israel on November 23, 1962; Chad on January 29, 1963; Afghanistan on March 19, 1963; New Zealand on March 22, 1963; Niger on April 18, 1963; Togo on May 6, 1963; Ceylon, with statement, on July 11, 1963; Burma, with reservation, on July 29, 1963; Yugoslavia on August 27, 1963; Argentina, with reservation, on October 10, 1963; Panama on December 4, 1963; Ecuador on January 14, 1964; Ghana on January 15, 1964; Senegal on January 24, 1964; Byelorussian Soviet Socialist Republic, with reservation and declaration, on February 20, 1964; Union of Soviet Socialist Republics, with reservation and declaration, on February 20, 1964; Czechoslovakia, with reservation and statement, on March 20, 1964; Ukrainian Soviet Socialist Republic, with reservation and declaration, on April 15, 1964; Hungary, with reservation and statement, on April 24, 1964; Jamaica on April 29, 1964; Brazil on June 18, 1964; Trinidad and Tobago on June 22, 1964; Japan on July 13, 1964; Peru on July 22, 1964; the United Kingdom on September 2, 1964; Tunisia on September 8, 1964; Denmark on September 15, 1964; Kenya on November 13, 1964; India, with reservation and declaration, on December 13, 1964; Mali on December 15, 1964; Sweden on December

18, 1964; Algeria, with reservation, on April 7, 1965; Lebanon on April 23, 1965; Ethiopia on April 29, 1965; Malawi on June 8, 1965; Finland on July 6, 1965; Pakistan, with reservation, on July 9, 1965; the Netherlands on July 16, 1965; Zambia on August 12, 1965; Spain on March 1, 1966; Poland, with reservation and statement, on March 16, 1966; the United Arab Republic on July 20, 1966; Mexico on April 18, 1967; Turkey on May 23, 1967; and the United States of America on May 25, 1967;

And whereas, pursuant to the provisions of Article 41, the Convention entered into force on December 13, 1964, with respect to the first forty States depositing instruments of ratification or accession and entered into force with respect to the United States of America on June 24, 1967;

Now, THEREFORE, be it known that I, Lyndon B. Johnson, President of the United States of America, do hereby proclaim and make public the said Convention to the end that the same and every article and clause thereof shall be observed and fulfilled with good faith, on and after June 24, 1967, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the city of Washington this twelfth day of July in the year of our [SEAL] Lord one thousand nine hundred sixty-seven and of the Independence of the United States of America the one hundred ninety-second.

LYNDON B. JOHNSON

By the President:

DEAN RUSK

*Secretary of State*

## **D. Protocol Amending the Single Convention on Narcotic Drugs, 1961**

*Done at Geneva March 25, 1972; entered into force August 8, 1975.*

### **PREAMBLE**

The Parties to the present Protocol,

Considering, the provisions of the Single Convention on Narcotic Drugs, 1961, done at New York on 30 March 1961<sup>1</sup> (hereinafter called the Single Convention),

Desiring to amend the Single Convention,

Have agreed as follows:

### **ARTICLE 1**

#### **AMENDMENTS TO ARTICLE 2, PARAGRAPH 4, 6 AND 7 OF THE SINGLE CONVENTION**

Article 2, paragraphs 4, 6 and 7, of the Single Convention shall be amended to read as follows:

"4. Preparations in Schedule III are subject to the same measures of control as preparations containing drugs in Schedule II except that article 31, paragraphs 1(b) and 3 to 15 and, as regards their acquisition and retail distribution, article 34, paragraph (b), need not apply, and that for the purpose of estimates (article 19 and statistics (article 20) the information required shall be restricted to the quantities of drugs used in the manufacture of such preparations.

6. In addition to the measures of control applicable to all drugs in Schedule I, opium is subject to the provisions of article 19, paragraph 1, sub-paragraph (f), and of article 21 bis, 23 and 24, the coca leaf to those of articles 26 and 27 and cannabis to those of article 28.

7. The opium poppy, the coca bush, the cannabis plant, poppy straw and cannabis leaves are subject to the control measures prescribed in article 19, paragraph 1, sub-paragraph (e), article 20, paragraph 1, sub-paragraph (g), article 21 bis and in articles 22 to 24; 22, 26 and 27; 22 and 28; 25; and 28, respectively."

<sup>1</sup>TIAS, 6298, 6423, 6458, 6795, 7223, 7817, 7945; 18 UST 147, 3279; 19 UST 4668; 2 UST 4064; 22 UST 1808; 25 UST 651; 25 UST 2772.

## ARTICLE 2

### AMENDMENTS TO THE TITLE OF ARTICLE 9 OF THE SINGLE CONVENTION AND ITS PARAGRAPH 1 AND INSERTION OF NEW PARAGRAPH 4 AND 5

The title of article 9 of the Single Convention shall be amended to read as follows:

#### "COMPOSITION AND FUNCTIONS OF THE BOARD"

Article 9, paragraph 1, of the Single Convention shall be amended to read as follows:

"1. The Board shall consist of thirteen members to be elected by the Council as follows:

(a) Three members with medical, pharmacological or pharmaceutical experience from a list of at least five persons nominated by the World Health Organization; and

(b) Ten members from a list of persons nominated by the Members of the United Nations and by Parties which are not Members of the United Nations."

The following new paragraphs shall be inserted after paragraph 3 of article 9 of the Single Convention:

"4. The Board, in co-operation with Governments, and subject to the terms of this Convention, shall endeavor to limit the cultivation, production, manufacture and use of drugs to an adequate amount required for medical and scientific purposes, to ensure their availability for such purposes and to prevent illicit cultivation, production and manufacture of, and illicit trafficking in and use of, drugs.

5. All measures taken by the Board under this Convention shall be those most consistent with the intent to further the co-operation of Governments with the Board and to provide the mechanism for a continuing dialogue between Governments and the Board which will lend assistance to and facilitate effective national action to attain the aims of this Convention."

## ARTICLE 3

### AMENDMENTS TO ARTICLE 10, PARAGRAPH 1 AND 4, OF THE SINGLE CONVENTION

Article 10, paragraph 1 and 4, of the Single Convention shall be amended to read as follows:

"1. The members of the Board shall serve for a period of five years, and may be re-elected.

4. The Council, on the recommendation of the Board, may dismiss a member of the Board who has ceased to fulfil the conditions required for membership by paragraph 2 of article 9. Such rec-

ommendations shall be made by an affirmative vote of nine members of the Board."

#### ARTICLE 4

##### AMENDMENT TO ARTICLE 11, PARAGRAPH 3, OF THE SINGLE CONVENTION

Article 11, paragraph 3, of the Single Convention shall be amended to read as follows:

"3. The quorum necessary at meetings of the Board shall consist of eight members."

#### ARTICLE 5

##### AMENDMENT TO ARTICLE 12, PARAGRAPH 4, OF THE SINGLE CONVENTION

Article 12, paragraph 4, of the Single Convention shall be amended to read as follows:

"5. The Board, with a view of limiting the use and distribution of drugs to an adequate amount required for medical and scientific purposes and to ensuring their availability for such purposes, shall as expeditiously as possible confirm the estimates, including supplementary estimates, or, with the consent of the Government concerned, may amend such estimates. In case of a disagreement between the Government and the Board, the latter shall have the right to establish, communicate and publish its own estimates, including supplementary estimates."

#### ARTICLE 6

##### AMENDMENTS TO ARTICLE 14, PARAGRAPHS 1 AND 2, OF THE SINGLE CONVENTION

Article 14, paragraph 1 and 2, of the Single Convention shall be amended to read as follows:

"1. (a) If, on the basis of its examination of information submitted by Governments to the Board under the provisions of this Convention, or of information communicated by United Nations organs or by specialized agencies or, provided that they are approved by the Commission on the Board's recommendation, by either other intergovernmental organizations or international nongovernmental organizations which have direct competence in the subject matter and which are in consultative status with the Economic and Social Council under Article 71 of the Charter of the United Nations or which enjoy a similar status by special agreement with the Council, the Board has objective reasons to believe that the aims of this Convention are being seriously endangered by reason of the failure of any Party, country or territory to carry out the provisions of this Convention, the Board shall have the right to propose to the Gov-

ernment concerned the opening of consultations or to request it to furnish explanations. If, without any failure in implementing the provisions of the Convention, a Party or a country or territory has become, or if there exists evidence of a serious risk that it may become, an important center of illicit cultivation, production or manufacture of, or traffic in or consumption of drugs, the Board has the right to propose to the Government concerning the opening of consultations. Subject to the right of the Board to call the attention of the Parties, the Council and the Commission to the matter referred to in sub-paragraph (d) below, the Board shall treat as confidential a request for information and an explanation by a Government or a proposal for consultations and the consultations held with a Government under this sub-paragraph.

(b) After taking action under sub-paragraph (a) above, the Board, if satisfied that it is necessary to do so, may call upon the Government concerned to adopt such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of this Convention.

(c) The Board may, if it thinks such action necessary for the purpose of assessing a matter referred to in sub-paragraph (a) of this paragraph, propose to the Government concerned that a study of the matter be carried out in its territory by such means as the Government deems appropriate. If the Government concerned decides to undertake this study, it may request the Board to make available the expertise and the services of one or more persons with the requisite competence to assist the officials of the Government in the proposed study. The Person or persons whom the Board intends to make available shall be subject to the approval of the Government. The modalities of this study and the time-limit within which the study has to be completed shall be determined by consultation between the Government and the Board. The Government shall communicate to the Board and the results of the study and shall indicate the remedial measures that it considers necessary to take.

(d) If the Board finds that the Government concerned has failed to give satisfactory explanations when called upon to do so under sub-paragraph (a) above, or has failed to adopt any remedial measures which it has been called upon to take under sub-paragraph (b) above, or that there is a serious situation that needs co-operative action at the international level with a view to remedying it, it may call the attention of the Parties, the Council and the Commission to the matter. the Board shall so act if the aims of this Convention are being seriously endangered and it has not been possible to resolve the matter satisfactorily in any other way. It shall also so act if it finds that there is a serious situation that needs co-operative action; after considering the reports of the Board, and of the Commission if available on the matter, the Council may draw the attention of the General Assembly to the matter.

2. The Board, when calling the attention of the Parties, the Council and the Commission to a matter in accordance with paragraph 1(d) above, may, if it is satisfied that such a course is necessary, recommend to Parties that they stop the import of drugs, the export of drugs, or both, from or to the country or territory concerned, either for a designated period or until the Board shall be satisfied as to the situation in that country or territory. The State concerned may bring the matter before the Council."

#### ARTICLE 7

#### NEW ARTICLE 14 BIS

The following new article shall be inserted after article 14 of the Single Convention:

#### "ARTICLE 14 BIS

#### TECHNICAL AND FINANCIAL ASSISTANCE

In cases which it considers appropriate and either in addition or as an alternative to measures set forth in article 14, paragraph 1 and 2, the Board, with the agreement of the Government concerned, may recommend to the competent United Nations organs and to the specialized agencies that technical or financial assistance, or both, be provided to the Government in support of its efforts to carry out its obligations under this Convention, including those set out or referred to in article 2, 35, 38 and 38 bis."

#### ARTICLE 8

#### AMENDMENT TO ARTICLE 16 OF THE SINGLE CONVENTION

Article 16 of the Single Convention shall be amended to read as follows:

"The secretariat services of the Commission and the Board shall be furnished by the Secretary-General. In particular, the Secretary of the Board shall be appointed by the Secretary-General in consultation with the Board."

#### ARTICLE 9

#### AMENDMENTS TO ARTICLE 19, PARAGRAPHS 1, 2 AND 5, OF THE SINGLE CONVENTION

Article 19, paragraph 1, 2 and 5, of the Single Convention shall be amended to read as follows:

"1. The Parties shall furnish to the Board each year for each of their territories, in the manner and form prescribed by the Board, estimates on forms supplied by it in respect of the following matters:

(a) Quantities of drugs to be consumed for medical and scientific purposes;

(b) Quantities of drugs to be utilized for the manufacture of other drugs of preparations in Schedule III, and of substances not covered by this Convention;

(c) Stocks of drugs to be held as at 31 December of the year to which the estimates relate;

(d) Quantities of drugs necessary for addition to special stocks;

(e) The area (in hectares) and the geographical location of land to be used for the cultivation of the opium poppy;

(f) Approximate quantity of opium to be produced;

(g) The number of industrial establishments which will manufacture synthetic drugs; and

(h) The quantities of synthetic drugs to be manufactured by each of the establishments referred to in the preceding sub-paragraph.

2. (a) Subject to the deductions referred to in paragraph 3 of article 21, the total of the estimates for each territory and each drug except opium and synthetic drugs shall consist of the sum of the amounts specified under sub-paragraphs (a), (b) and (d) of paragraph 1 of this article, with the addition of any amount required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in sub-paragraph (c) of paragraph 1.

(b) Subject to the deductions referred to in paragraph 3 of article 21 regarding imports and in paragraph 2 of article 21 bis, the total of the estimates for opium for each territory shall consist either of the sum of the amounts specified under sub-paragraphs (a), (b) and (d) of paragraph 1 of this article, with the addition of any amount required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in sub-paragraph (d) of paragraph 1, or of the amount specified under sub-paragraph (f) of paragraph 1 of this article, whichever is higher.

(c) Subject to the deductions referred to in paragraph 3 of article 21, the total of the estimates for each territory for each synthetic drug shall consist either of the sum of the amounts specified under sub-paragraphs (a) (b) and (d) of paragraph 1 of this article, with the addition of any amount required to bring the actual stocks on hand at 31 December of the preceding year to the level estimated as provided in sub-paragraph (c) of paragraph 1, of the sum of the amounts specified under sub-paragraph (h) of paragraph 1 of this article, whichever is higher.

(d) The estimates furnished under the preceding sub-paragraphs of this paragraph shall be appropriately modified to take into account any quantity seized and thereafter released for licit use as well as any quantity taken from special stocks for the requirements of the civilian population.



5. Subject to the deductions referred to in paragraph 3 of article 21, and account being taken where appropriate of the provisions of article 21 bis, the estimates shall not be exceeded."

## ARTICLE 10

### AMENDMENTS TO ARTICLE 20 OF THE SINGLE CONVENTION

Article 20 of the Single Convention shall be amended to read as follows:

"1. The Parties shall furnish to the Board for each of their territories, in the manner and form prescribed by the Board, statistical returns on forms supplied by it in respect of the following matters:

- (a) Production or manufacture of drugs;
- (b) Utilization of drugs for the manufacture of other drugs, of preparations in Schedule III and of substances not covered by this Convention, and utilization of poppy straw for the manufacture of drugs;
- (c) Consumption of drugs;
- (d) Imports and exports of drugs and poppy straw;
- (e) Seizures of drugs and disposal thereof;
- (f) Stocks of drugs as at 31 December of the year to which the returns relate; and
- (g) Ascertainable area of cultivation of the opium poppy.

2. (a) The statistical returns in respect of the matters referred to in paragraph 1, except sub-paragraph (d), shall be prepared annually and shall be furnished to the Board not later than 30 June following the year to which they relate.

(b) The statistical returns in respect to the matters referred to in sub-paragraph (d) of paragraph 1 shall be prepared quarterly and shall be furnished to the Board within one month after the end of the quarter to which they relate.

3. The Parties are not required to furnish statistical returns respecting special stocks, but shall furnish separately returns respecting drugs imported into or procured within the country or territory for special purposes, as well as quantities of drugs withdrawn from special stocks to meet the requirements of the civilian population."

## ARTICLE 11

### NEW ARTICLE 21 BIS

The following new article shall be inserted after article 21 of the Single Convention:

"ARTICLE 21 BISLIMITATION OF PRODUCTION OF OPIUM

1. The production of opium by any country or territory shall be organized and controlled in such manner as to ensure that, as far as possible, the quantity produced in any one year shall not exceed the estimate of opium to be produced as established under paragraph 1 (f) of article 19.

2. If the Board finds on the basis of information at its disposal in accordance with the provisions of this Convention that a Party which has submitted an estimate under paragraph 1 (f) of article 19 has not limited opium produced within its borders to licit purposes in accordance with relevant estimates and that a significant amount of opium produced, whether licitly or illicitly, within the borders of such a Party, has been introduced into the illicit traffic, it may, after studying the explanations of the Party concerned, which shall be submitted to it within one month after notification of the finding it questions, decide to deduct all, or a portion, of such an amount from the quantity to be produced and from the total of the estimates as defined in paragraph 2 (b) of article 19 for the next year in which such a deduction can be technically accomplished, taking into account the season of the year and contractual commitments to export opium. This decision shall take effect ninety days after the Party concerned is notified thereof.

3. After notifying the Party concerned of the decision it has taken under paragraph 2 above with regard to a deduction, the Board shall consult with that Party in order to resolve the situation satisfactorily.

4. If the situation is not satisfactorily resolved, the Board may utilize the provisions of article 14 where appropriate.

5. In taking its decision with regard to a deduction under paragraph 2 above, the Board shall take into account not only all relevant circumstances including those giving rise to the illicit traffic problem referred to in paragraph 2 above, but also any relevant new control measures which may have been adopted by the Party."

ARTICLE 12AMENDMENT TO ARTICLE 22 OF THE SINGLE CONVENTION

Article 22 of the Single Convention shall be amended to read as follows:

"1. Whenever the prevailing conditions in the country or territory of a Party render the prohibition of the cultivation of the opium poppy, the coca bush or the cannabis plant the most suitable measure, in its opinion, for protecting the public health and welfare and preventing the diversion of drugs into the illicit traffic, the Party concerned shall prohibit cultivation.

2. A party prohibiting cultivation of the opium poppy or the cannabis plant shall take appropriate measures to seize any plants illicitly cultivated and to destroy them, except for small quantities required by the Party for scientific or research purposes."

### ARTICLE 13

#### AMENDMENT TO ARTICLE 35 OR THE SINGLE CONVENTION

Article 25 of the Single Convention shall be amended to read as follows:

"Having due regard to their constitutional, legal and administrative system, the Parties shall:

(a) Make arrangements at the national level for co-ordination of preventive and repressive action against the illicit traffic; to this end they may usefully designate an appropriate agency responsible for such co-ordination;

(b) Assist each other in the campaign against the illicit traffic in narcotic drugs;

(c) Co-operate closely with each other and with the competent international organizations of which they are members with a view to maintaining a co-ordinated campaign against the illicit traffic;

(d) Ensure that international co-operation between the appropriate agencies be conducted in an expeditious manner;

(e) Ensure that where legal papers are transmitted internationally for the purpose of a prosecution, the transmittal be effected in an expeditious manner to the bodies designated by the Parties; this requirement shall be without prejudice to the right of a Party to require that legal papers be sent to it through the diplomatic channel;

(f) Furnish, if they deem it appropriate, to the Board and the commission through the Secretary-General, in addition to information required by article 18, information relating to illicit drug activity within their borders, including information on illicit cultivation, production, manufacture and use of, and on illicit trafficking in, drugs; and

(g) Furnish the information referred to in the preceding paragraphs as far as possible in such manner and by such dates as the Board may request; if requested by a Party, the Board may offer its advice to it in furnishing the information and in endeavouring to reduce the illicit drug activity within the borders of that Party."

### ARTICLE 14

#### AMENDMENTS TO ARTICLE 36, PARAGRAPHS 1 AND 2, OF THE SINGLE CONVENTION

Article 26, paragraph 1 and 2, of the Single Convention shall be amended to read as follows:

"1. (a) Subject to its constitutional limitations, each Party shall adopt such measures as will ensure that cultivation, production, manufacture, extraction, preparation, possession, offering, offering for sale, distribution, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation and exportation of drugs contrary to the provisions of this Convention, and any other action which in the opinion of such Party may be contrary to the provisions of this Convention, shall be punishable offences when committed intentionally, and that serious offences shall be liable to adequate punishment particularly by imprisonment or other penalties of deprivation of liberty.

(b) Notwithstanding the preceding sub-paragraph, when abusers of drugs have committed such offences, the Parties may provide, either as an alternative to conviction or punishment or in addition to conviction or punishment, that such abusers shall undergo measures of treatment, education, after-care, rehabilitation and social reintegration in conformity with paragraph 1 of article 38.

2. Subject to the constitutional limitations of a Party, its legal system and domestic law,

(a) (i) Each of the offences enumerated in paragraph 1, if committed in different countries, shall be considered as a distinct offence;

(ii) Intentional participation in, conspiracy to commit and attempts to commit, any of such offences, and preparatory acts and financial operations in connection with the offences referred to in this article, shall be punishable offences as provided in paragraph 1;

(iii) Foreign convictions for such offences shall be taken into account for the purpose of establishing recidivism; and

(iv) Serious offences heretofore referred to committed either by nationals or by foreigners shall be prosecuted by the Party in whose territory the offence was committed, or by the Party in whose territory the offender is found if extradition is not acceptable in conformity with the law of the Party to which application is made, and if such offender has not already been prosecuted and judgement given.

(b) (i) Each of the offences enumerated in paragraphs 1 and 2 (a) (ii) of this article shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. Parties undertake to include such offenses as extraditable offences in every extradition treaty to be concluded between them.

(ii) If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has not extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of the offences enumerated in paragraphs 1 and 2 (a) (ii) of this article. Extradition shall be subject to the other conditions provided by the law of the requested Party.

(iii)) Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences enumerated in paragraphs 1 and 2 (a) (ii) of this article as extraditable offences between themselves, subject to the conditions provided by the law of the requested Party.

(iv) Extradition shall be granted in conformity with the law of the Party to which application is made, and, notwithstanding subparagraphs (b) (i), (ii) and (iii) of this paragraph, the Party shall have the right to refuse to grant the extradition in cases where the competent authorities consider that the offences is not sufficiently serious."

## ARTICLE 15

### AMENDMENTS TO ARTICLE 38 OF THE SINGLE CONVENTION AND ITS TITLE

Article 28 of the Single Convention and its title shall be amended to read as follows:

#### "MEASURES AGAINST THE ABUSE OF DRUGS

1. The Parties shall give special attention to and take all practicable measures for the prevention of abuse of drugs and for the early identification, treatment, education, after-care, rehabilitation and social reintegration of the persons involved and shall co-ordinate their efforts to these ends.

2. The Parties shall as far as possible promote the training of personnel in the treatment, after-care, rehabilitation and social reintegration of abusers of drugs.

3. The Parties shall take all practicable measures to assist persons whose work so requires to gain an understanding of the problems of abuse of drugs and of its prevention, and shall also promote such understanding among the general public if there is a risk that abuse of drugs will become widespread."

## ARTICLE 16

### NEW ARTICLE 38 BIS

The following new article shall be inserted after article 389 of the Single Convention:

#### "ARTICLE 38

#### AGREEMENTS ON REGIONAL CENTRES

If a Party considers it desirable as part of its action against the illicit traffic in drugs, having due regard to its constitutional, legal and administrative systems, and, if it so desires, with the technical advice of the Board or the specialized agencies, it shall promote the

establishment, in consultation with other interested parties in the region, of agreements which contemplate the development of regional centres for scientific research and education to combat the problem resulting from the illicit use of and traffic in drugs."

#### ARTICLE 17

##### LANGUAGES OF THE PROTOCOL AND PROCEDURE FOR SIGNATURE, RATIFICATION AND ACCESSION

1. This Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be open for signature until 31 December 1972 on behalf of any Party or signatory to the Single Convention.

2. This Protocol is subject to ratification by States which have signed it and have ratified or acceded to the Single Convention. The instruments of ratification shall be deposited with the Secretary-General.

3. This Protocol shall be open after 31 December 1972 for accession by any Party to the Single Convention which has not signed this Protocol. The instruments of accession shall be deposited with the Secretary-General.

#### ARTICLE 18

##### ENTRY INTO FORCE

1. This Protocol, together with the amendments which it contains, shall come into force on the thirtieth day following the date on which the fortieth instrument of ratification or accession is deposited in accordance with article 17.

2. In respect of any other State depositing an instrument of ratification or accession after the date of deposit of the said fortieth instrument, this Protocol shall come into force on the thirtieth day after the deposit by that State of its instrument of ratification or accession.

#### ARTICLE 19

##### EFFECT OF ENTRY INTO FORCE

Any State which becomes a Party to the Single Convention after the entry into force of this Protocol pursuant to paragraph 1 of article 18 above shall, failing an expression of a different intention by that State:

(a) be considered as a Party to the Single Convention as amended; and

(b) be considered as a Party to the unamended Single Convention in relation to any Party to that Convention not bound by this Protocol.

- ARTICLE 20

TRANSITIONAL PROVISIONS

1. The functions of the International Narcotics Control Board provided for in the amendments contained in this Protocol shall, as from the date of the coming into force of this Protocol pursuant to paragraph 1 of article 18 above, be performed by the Board as constituted by the unamended Single Convention.

2. The Economic and Social Council shall fix the date on which the Board as constituted under the amendments contained in this Protocol shall enter upon its duties. As from that date the Board as so constituted shall, with respect to those Parties to the unamended Single Convention and to those Parties to the treaties enumerated in article 44 thereof which are not Parties to this Protocol, undertake the functions of the Board as constituted under the unamended Single Convention.

3. Of the members elected at the first election after the increase in the membership of the Board from eleven to thirteen members the terms of six members shall expire at the end of three years and the terms of the other seven members shall expire at the end of five years.

4. The members of the Board whose terms are to expire at the end of the above mentioned initial period of three years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.

ARTICLE 21

RESERVATIONS

1. Any State may, at the time of signature or ratification of or accession to this Protocol, make a reservation in respect of any amendment contained herein other than the amendments to article 2, paragraphs 6 and 7 (article 1 of this Protocol), article 9, paragraphs 1, 4 and 5 (article 2 of this Protocol), article 10, paragraphs 1 and 4 (article 3 of this Protocol), article 11 (article 4 of this Protocol), article 14 bis (article 7 of this Protocol), article 16 (article 8 of this Protocol), article 22 (article 12 of this Protocol), article 25 (article 13 of this Protocol), article 36, paragraph 1 (b) (article 14 of this Protocol), article 38 (article 15 of this Protocol) and article 38 bis (article 16 of this Protocol).

2. A State which has made reservations may at any time by notification in writing withdraw all or part of its reservation.

ARTICLE 22

The Secretary-General shall transmit certified true copies of this Protocol to all the Parties and signatories to the Single Convention. When this Protocol has entered into force pursuant to paragraph

1 of article 18 above, the Secretary-General shall prepare a text of the Single Convention as amended by this Protocol, and shall transmit certified true copies of it to all States Parties or entitled to become Parties to the Convention as amended.

DONE at Geneva, this twenty-fifth day of March one thousand nine hundred and seventy-two, in a single copy, which shall be deposited in the archives of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed this Protocol on behalf of their respective Governments:

*Declaration by Israel*

The Government of Israel will not proceed to the ratification of the Protocol until it has received assurances that all the neighbouring States who intend to become parties to it will do so without reservation or declaration, and that the so-called reservation or declaration referring to Israel and made by one of Israel's neighbours in connection with its participation in the 1961 Single Convention, and which was quoted at the meeting of the Second Committee on 18 March 1972, is withdrawn.

*Reservation by Panama [Translation]*

Since, under its Constitution, the Republic of Panama cannot be required by any international treaty to extradite its own nationals, it is signing this Protocol amending the 1961 Single Convention on Narcotic Drugs subject to the express RESERVATION that the amendment made by article 14 of the Protocol to article 36, paragraph 2, of the 1961 Single Convention on Narcotic Drugs (a) does not modify the extradition treaties to which the Republic of Panama is a party in any manner which might require the latter to extradite its own nationals; (b) does not require the Republic of Panama to include in such extradition treaties as it may conclude in the future any provision requiring it to extradite its own nationals; and (c) may not interpreted or applied in any manner which gives rise to an obligation on the part of the Republic of Panama to extradite any of its own nationals.

I hereby certify that the foregoing text is a true copy of the Protocol amending the Single Convention on Narcotic Drugs, 1961, done at Geneva on 25 March 1972, the original of which is deposited with the Secretary-General of the United Nations.

For the Secretary-General  
The Legal Counsel

United Nations, New York,  
9 April 1973



## **E. Declaration of Cartagena**

*[By the Presidents of Bolivia, Colombia, Peru, and the United States]*

FEBRUARY 15, 1990

The Parties consider that a strategy which commits the Parties to implement or strengthen a comprehensive, intensified anti-narcotics program must address the issues of demand reduction, consumption and supply. Such a strategy also must include understandings regarding economic cooperation, alternative development, encouragement of trade and investment, as well as understandings on attacking the traffic in illicit drugs, and on diplomatic and public diplomacy initiatives.

The Parties recognize that these areas are interconnected and self-reinforcing. Progress in one area will help achieve progress in others. Failure in any of them will jeopardize progress in the others. The order in which they are addressed in the document is not meant to assign to them any particular priority.

Economic cooperation and international initiatives cannot be effective unless there are concomitant, dynamic programs attacking the production of, trafficking in and demand for illicit drugs. It is clear that to be fully effective, supply reduction efforts must be accompanied by significant reduction in demand. The Parties recognize that the exchange of information on demand control programs will benefit their countries.

The Parties recognize that the nature and impact of the traffic in and interdiction of illicit drugs varies in each of the three Andean countries and cannot be addressed fully in this document. The Parties will negotiate bilateral and multilateral agreements, consistent with their anti-narcotics efforts, specifying their responsibilities and commitments with regard to economic cooperation and intensified enforcement actions.

### **A. UNDERSTANDINGS REGARDING ECONOMIC ASPECTS AND ALTERNATIVE DEVELOPMENT**

The Parties recognize that trafficking in illicit drugs has a negative long-term impact on their economies. In some of the Parties, profits from coca production and trade and from illicit drug trafficking contribute, in varying degrees, to the entry of foreign exchange and to the generation of employment and income. Suppression of coca production and trade will result in significant, immediate, and long-term economic costs that will affect, in various ways, each of the Andean countries.

The President of the United States will request Congress to authorize new funds for the program during fiscal years 1991 to 1994, in order to support the Andean Parties' efforts to counteract the

short- and long-term socio-economic impact of an effective fight against illicit drugs. This contribution by the United States would be made within the framework of actions against drug trafficking carried out by the Andean Parties. The Andean Parties reiterate the importance of implementing or strengthening sound economic policies for the effective utilization of such a contribution. The United States is also prepared to cooperate with the Andean Parties in a wide range of initiatives for development, trade and investment in order to strengthen and sustain long-term economic growth.

Alternative development, designed to replace the coca economy in Peru and Bolivia and illicit drug trafficking in all the Andean Parties, includes the following areas of cooperation. In the short term, there is a need to create and/or to strengthen social emergency programs and balance of payments support to mitigate the social and economic costs stemming from substitution. In the medium and long term, investment programs and measures will be needed to create the economic conditions for definitive substitution of the coca economy in those countries where it exists or of that sector of the economy affected by narcotics trafficking. It is necessary to implement programs to preserve the ecological balance.

### *1. Alternative Development and Crop Substitution*

In order to foster increased employment and income opportunities throughout the entire productive system and implement or enhance a sound economic policy to sustain long-term growth, the United States will support measures aimed at stimulating broad-based rural development, promoting non-traditional exports, and building or reinforcing productive infrastructure. The Parties, in accordance with the respective Policies of Bolivia, Colombia, Peru and the United States, shall determine the economic assistance required to ensure sound economic Policies and sustain alternative development and crop substitution, which in the medium term will help replace the income, employment and foreign exchange in the countries in which these have been generated by the illegal coca economy. The United States is prepared to finance economic activities of this kind with new and concessional resources.

In order to achieve a complete program of alternative development and crop substitution, the Parties agree that in addition to the cooperation provided by the United States, economic cooperation, as well as greater incentives to investment and foreign trade from other sources, will be needed. The Parties will make concerted efforts to obtain the support of multilateral and other economic institutions for these programs, as the three Andean Parties implement or continue sound economic policies and effective programs against drugs.

The Parties are convinced that a comprehensive fight against illicit drug traffic will disrupt the market for coca and coca derivatives and will reduce their prices. As success is achieved in this fight, those employed in growing coca and in its primary processing will seek alternative sources of income either by crop substitution or by changing jobs. The Parties will work together to identify alternative-income activities for external financing. The United States is ready to consider financing of activities such as research,

extension, credit and other agricultural support services and support of private-sector initiatives for the creation of micro-enterprises and agro-industries.

The United States will also cooperate with the Andean Parties to promote viable domestic and foreign markets to sell the products generated by alternative development and crop substitution programs.

## *2. Mitigation of the Social and Economic Impact of the Fight Against Illicit Drug Trafficking*

As the Andean Parties implement or continue to develop effective programs of interdiction of the flow of illicit drugs and of crop eradication, they will need assistance of the fast disbursement type to mitigate both small- and large-scale economic costs. The Parties will cooperate to identify the type of assistance required. The United States is prepared to provide balance of payments support to help meet foreign exchange needs. The United States will also consider funding for emergency social programs, such as the successful one in Bolivia, to provide employment and other opportunities to the poor directly affected by the fight against illicit drugs.

## *3. Trade Initiatives, Incentives to Exports and Private Foreign Investment*

An increase in trade and private investment is essential to facilitate sustained economic growth and to help offset the economic dislocations resulting from any effective program against illicit drugs. The Parties will work together to increase trade among the three Andean countries and the United States, effectively facilitating access to the United States market and strengthening export promotion, including identification, development and marketing of new export products. The United States will also consider providing appropriate technical and financial assistance to help Andean agricultural products comply with the admission requirements.

The Parties may consider the establishment of economic and investment policies, as well as legislation and regulations to foster private investment. Where favorable conditions exist, the United States will facilitate private investment in the three Andean countries, taking into account the particular conditions and potential of each.

## **B. UNDERSTANDINGS REGARDING ATTACKING ILLICIT DRUGS**

The Parties reaffirm their will to fight drug trafficking in a comprehensive manner attacking all facets of the trade: production, transportation and consumption. Such comprehensive action includes the following:

- Preventive actions to reduce consumption and therefore demand.

- Control and law enforcement activities against illegal cultivation, processing, and marketing of illicit drugs.

- Control of essential chemicals for the production of illegal drugs and the means used for their transport.

- Seizure, forfeiture, and sharing of illegal proceeds and property used in committing narcotics-related crimes.

—Coordination of law enforcement agencies, the military, prosecutors and courts, within the framework of national sovereignty of each of the Parties.

—Actions to bring about a net reduction in the illegal cultivation of coca.

The Parties undertake to engage in an ongoing evaluation of their cooperation, so that the President of the United States, as appropriate, may request Congress to provide additional assistance to the Andean Parties.

Given that the Parties act within a framework of respect for human rights, they reaffirm that nothing would do more to undermine the war on drugs than disregard for human rights by participants in the effort.

### *1. Prevention and Demand*

The Parties undertake to support development and expansion of programs on comprehensive prevention, such as preventive public education in both rural and urban areas, treatment of drug addicts, and information to encourage the public opposition to illegal drug production, trade and consumption. These programs are fundamental if the drug problem is to be successfully confronted.

The Parties recognize that prevention efforts in the four countries will benefit from shared information about successful prevention programs and from bilateral and multilateral cooperation agreements to expand efforts in this field.

To this end, the Parties undertake to contribute economic, material and technical resources to support such comprehensive prevention programs.

### *2. Interdiction*

A battle against an illicit product must focus on the demand for, production of and trade in that product. Interdiction of illegal drugs, as they move from producer to consumer, is essential. The Parties pledge to step up efforts within their own countries to interdict illegal drugs and to increase coordination and cooperation among them to facilitate this fight. The United States is ready to provide increased cooperation in equipment and training to the law enforcement bodies of the Andean Parties.

### *3. Involvement of the Armed Forces of the Respective Countries*

The control of illegal trafficking in drugs is essentially a law enforcement matter. However, because of its magnitude and the different aspects involved, and in keeping with the sovereign interest of each State and its own judicial system, the armed forces in each of the countries, within their own territory and national jurisdictions, may also participate. The Parties may establish bilateral and multilateral understandings for cooperation in accordance with their interests, needs and priorities.

### *4. Information Sharing and Intelligence Cooperation*

The Parties commit themselves to a greater exchange of information and intelligence in order to strengthen action by the competent agencies. The Parties will pursue bilateral and multilateral under-

standings on information and intelligence cooperation, consistent with their national interests and priorities.

#### *5. Eradication and Discouragement of Illicit Crops*

Eradication can play an essential part in the anti-drug fight of each country. In each case, eradication programs have to be carefully crafted, measuring their possible effect on total illicit drug production in each country; their cost-benefit ratio relative to other means of fighting illicit drugs; whether they can be most effective as voluntary or compulsory programs or a combination of the two; and their probable political and social consequences.

The Parties recognize that to eradicate illicit crops, the participation of the growers themselves is desirable, adopting measures that will help them obtain legal sources of income.

New economic opportunities, such as programs for alternative development and crop substitution, shall be fostered to help to dissuade growers from initiating or expanding illegal cultivation. Our goal is a sustained reduction in the total area under illegal cultivation.

Eradication programs must safeguard human health and preserve the ecosystem.

#### *6. Control of Financial Assets*

The Parties agree to identify, trace, freeze, seize, and apply other legal procedures for the disposition of drug crime proceeds in their respective countries, and to attack financial aspects of the illicit drug trade. In accordance with their respective laws, each of the Parties will seek to adopt measures to define, categorize, and criminalize money laundering, as well as to increase efforts to implement current legislation. The Parties agree to establish formulas providing exceptions to banking secrecy.

#### *7. Forfeiture and Sharing of Illegal Drug Proceeds*

The Parties pledge to implement a system for forfeiture and sharing of illegal drug profits and assets, and to establish effective programs in this area.

In United States cases related to forfeiture of property of illegal drug traffickers where Bolivia, Colombia, and Peru provide assistance to the United States Government, the Government of the United States pledges to transfer to the assisting government such forfeited property to the extent consistent with United States laws and regulations. The Parties will also seek asset sharing agreements for Bolivia, Colombia, and Peru, with other countries.

#### *8. Control of Essential Chemicals Used in the Production of Illicit Drugs*

The control in the United States of the export of chemical substances used in the processing of cocaine is vital. In addition, there is a need for greater control of the import and domestic production of such substances by the Andean Parties. Joint efforts must be coordinated to eliminate the illicit trade in such substances.

The Parties agree:

—to step up interdiction of the movements of essential chemicals that have already entered the country, legally or ille-

gally, and are being diverted for illicit drug processing. This includes controlling choke points as well as establishing investigative and monitoring programs in close cooperation with all the Parties' law enforcement agencies.

- to further develop an internal system to track essential chemicals through sale, resale and distribution to the end user.

- to cooperate bilaterally and multilaterally to provide each other with information necessary to track domestic and international movements of essential chemicals for the purpose of controlling their sale and use.

- to support the efforts under the Organization of American States (OAS) auspices to develop and implement a regional inter-American agreement on essential chemicals.

#### *9. Control of Weapons, Planes, Ships, Explosives and Communications Equipment Used in Illegal Drug Trafficking*

Illicit drug trafficking is heavily dependent on weapons, explosives, communications equipment, and air, maritime and riverine transportation throughout the illicit cultivation and the production and distribution process.

The Parties agree:

- to strengthen controls over the movement of illegal weapons and explosives and over the sale, resale and the registration of aircraft and maritime vessels in their respective countries, which should be carried out by their own authorities.

The Parties agree to establish within their own territory control programs that include:

- the registration of ships and aircraft;
- the adoption of legal standards that permit effective forfeiture of aircraft and vessels;
- controls on pilot licenses and training;
- registration of airfields in their respective countries;
- development of control measures over communications equipment used in illegal drug trafficking to the extent permitted by their respective laws and national interests.

The United States agrees to work with the Andean Parties to stem weapons exports from the United States to illegal drug traffickers in the three Andean nations.

#### *10. Legal Cooperation*

The Parties pledge to cooperate in the sharing of instrumental evidence in forms admissible by their judicial proceedings. The Parties also agree to seek mechanisms that permit the exchange of information on legislation and judicial decisions in order to optimize legal proceedings against the traffic in illicit drugs.

The Parties recognize the value of international cooperation in strengthening the administration of justice, including the protection of judges, judicial personnel, and other individuals who take part in these proceedings.

### **C. UNDERSTANDINGS REGARDING DIPLOMATIC INITIATIVES AND PUBLIC OPINION**

The scourge of illicit drug trafficking and consumption respects no borders, threatens national security, and erodes the economic

and social structures of our nations. It is essential to adopt and carry out a comprehensive strategy to promote full awareness of the destructive effects of illegal production, illicit trafficking and the improper consumption of drugs. Toward this end, the Parties commit themselves to use all political and economic means within their power to put into effect programs aimed at achieving this goal.

### *1. Strengthening Public Opinion in Favor of Intensifying the Fight Against Illegal Drug Trafficking*

Public awareness should be enhanced also by means of active and determined diplomatic action. The Parties pledge to strengthen plans for joint programs leading to the exchange of ideas, experiences, and specialists in the field. The Parties call upon the international community to intensify a program of public information stressing the danger of drug trafficking in all of its phases. In this regard, the Parties undertake to give active support to Inter-American public awareness and demand reduction programs, and will support the development of a drug prevention education plan at the Inter-American meeting in Quito this year.

### *2. Economic Summit*

The 1989 Economic Summit in Paris established a Financial Action Task Force to determine how governments could promote cooperation and effective action against the laundering of money gained through illegal drug trafficking.

The United States will host the next Economic Summit on July 9-11, 1990, in Houston. The United States will use this opportunity to seek full attention on a priority basis to the fight against illegal drug trafficking.

The Parties call upon the Economic Summit member countries, and on the other participants in the Financial Action task Force, to give greater emphasis to the study of economic measures which may help to reduce drug trafficking. In particular, the Parties call upon the Economic Summit countries to take the steps necessary to ensure that assets seized from illicit drug trafficking in Bolivia, Colombia and Peru are used to finance programs of interdiction, alternative development and prevention in our countries.

### *3. Multilateral Approaches and Coordination*

The Parties intend to coordinate their actions in multilateral economic institutions in order to ensure for Bolivia, Colombia and Peru, to broader economic cooperation within the framework of a sound economic policy.

### *4. Report to the UN Special Session on Illicit Trafficking in Drugs*

The United Nations has recognized that the problem of drug trafficking presents a grave threat to the security of the states and economic stability. It has called for a Global Action Plan and it has convened a Special Session, February 20-23, 1990, to discuss the magnitude of this problem. This will be a proper occasion to reiterate the need to bring into force as quickly as possible the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which provides for energetic measures against il-

legal drug trafficking, while recognizing the ancestral and traditional uses of coca leaf.

The Parties request that consideration be given during the Special Session to the inclusion of the cooperative efforts outlined in this document to develop concrete programs for strengthening multilateral responses to the drug problem, as recommended in Resolution no. 44/141 of the United Nations General Assembly.

#### *5. Report to the OAS Meeting of ministers and CICAD*

The Organization of American States has called an Inter-American meeting of Ministers responsible for national narcotics programs, to be held on April 17-20, 1990 in Ixtapa, Mexico. The Parties urge that the meeting of Ministers and the Inter-American Drug Abuse Control Commission (CICAD) give priority to the understandings set forth in this document and lend support to their early implementation within the context of regional cooperation against drugs.

#### *6. Madrid Trilateral Meeting*

The Parties stress the importance of the document issued by the Trilateral Meeting in Madrid and the efforts undertaken in Europe, particularly the participation of the European Community, with a view to adopting specific policies and initiatives against illicit trafficking of drugs.

#### *7. World Ministerial Summit to Reduce Demand for Drugs and to Combat the Cocaine Threat*

The Parties note with satisfaction the convening of a World Ministerial Summit to Reduce Demand for Drugs and to Combat the Cocaine Threat, to be held on April 9-11, 1990 in London. This meeting will serve to highlight the role demand reduction must play in the international community's efforts to reduce the trade in illicit drugs and will underline the social, economic and human costs of the trade. The Parties agree to coordinate their actions and future strategies in this area with the objective of building upon this important initiative.

#### *8. Demarches to Transit Countries*

Through specialized agencies of the United Nations such as the Heads of National Law Enforcement Agencies, our countries participate in important coordination efforts. The Parties undertake to strengthen cooperation with transit countries on interdiction of traffic in illicit drugs.

#### *9. World Conference Against Illicit Drug Trafficking*

In order to progress towards the goals agreed upon at the Cartagena Summit, the Parties call for a world conference in 1991 to strengthen international cooperation in the elimination of improper consumption, illegal trafficking and production of drugs.

#### *10. Follow-Up Meeting to the Cartagena Summit*

In order to follow up on progress of agreements arising under the foregoing understandings, the Parties agree to hold a high level follow-up meeting within a period of not more than six months.



## **F. Joint Declaration of San Antonio**

FEBRUARY 27, 1992

We, the Presidents of Bolivia, Colombia, Ecuador, Mexico, Peru, and the United States of America, and the Minister of Foreign Relations of Venezuela, met in San Antonio, Texas, on the 26th and 27th of February, one thousand nine hundred and ninety-two and issued the following Declaration of San Antonio:

We recognize that the Cartagena Declaration, issued on February 15, 1990, by the Presidents of Bolivia, Colombia, Peru, and the United States of America, laid the foundation for the development of a comprehensive and multilateral strategy to address the problem of illegal drugs. Those of us who represent the countries that met in Cartagena strongly reaffirm the commitments assumed at that time. Meeting now as representatives of seven governments, we express our determination to move beyond the achievements of Cartagena, build upon the progress attained, and adapt international cooperation to the new challenges arising from worldwide changes in the drug problem.

We recognize that the overall problem of illegal drugs and related crimes represents a direct threat to the health and well-being of our peoples, to their economies, to the national security of our countries, and to harmony in international relations. Drugs lead to violence and addiction, threaten democratic institutions, and waste economic and human resources that could be used for the benefit of our societies.

We applaud the progress achieved over the past two years in reducing cocaine production, in lowering demand, in reducing cultivation for illicit purposes, in carrying out alternative development programs, and in dismantling and disrupting transnational drug trafficking organizations and their financial support networks. The close cooperation among our governments and their political will have led to an encouraging increase in drug seizures and in the effectiveness of law enforcement actions. Also as a result of this cooperation and political will, a number of the principal drug lords who were actively engaged in the drug trade two years ago are in prison in several countries. Alternative development programs have proven to be an effective strategy for replacing coca cultivation in producer countries.

Although we are encouraged by these achievements, we recognize that mutual cooperative efforts must be expanded and strengthened in all areas. We call on all sectors of society, notably the media, to increase their efforts in the anti-drug struggle. The role of the media is very important, and we urge them to intensify their valuable efforts. We undertake to promote, through the media, the values essential to a healthy society.

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In addition to the cocaine problem, we recognize the need to remain alert to the expansion of the production, trafficking, and consumption of heroin, marijuana, and other drugs. We emphasize the need to exert greater control over substances used in the production of these drugs, and to broaden consultations on the eradication of these illegal crops.

We are convinced that our anti-drug efforts must be conducted on the basis of the principle of shared responsibility and in a balanced manner. It is essential to confront the drug problem through an integrated approach, addressing demand, cultivation for illicit purposes, production, trafficking, and illegal distribution networks, as well as related crimes, such as traffic in firearms and in essential and precursor chemicals, and money laundering. In addition, our governments will continue to perfect strategies that include alternative development, eradication, control and interdiction, the strengthening of judicial systems, and the prevention of illicit drug use.

We recognize the fundamental importance of strengthening judicial systems to ensure that effective institutions exist to bring criminals to justice. We assume responsibility for strengthening judicial cooperation among our countries to attain these objectives. We reaffirm our intention to carry out these efforts in full compliance with the international legal framework for the protection of human rights.

We reaffirm that cooperation among us must be carried out in accordance with our national laws, with full respect for the sovereignty and territorial integrity of our nations, and in strict observance of international law.

We recognize that the problem of illicit drugs is international. All countries directly or indirectly affected by the drug problem should take upon themselves clear responsibilities and actions in the anti-drug effort. We call on the countries of the region to strengthen national and international cooperative efforts and to participate actively in regional programs. We recognize that in the case of Peru, complicity between narco-trafficking and terrorism greatly complicates the anti-drug effort, threatens democratic institutions, and undermines the viability of the Peruvian economy.

We express our support for the anti-drug struggle being carried out by our sister nations of the Western Hemisphere, we call on them to increase their efforts, and we offer to strengthen our governments' cooperation with them through specific agreements they may wish to sign. We value and encourage regional unity in this effort.

We note with concern the opening and expansion of markets for illicit drugs, particularly cocaine, in Europe and Asia. We call upon the nations of those continents and on other member countries of the international community to strengthen, through bilateral or multilateral agreements, cooperation in the anti-drug effort in which the nations of the Western Hemisphere are engaged. To this end, we have agreed to form a high-level group with representatives designated by the signatory countries of this Declaration, to visit other countries of this Hemisphere, Europe, and Japan, with the purpose of inviting them to participate actively in the efforts and cooperative strategies described in this Declaration.

We reaffirm our solid commitment to the anti-drug efforts of international organizations, notably the United Nations and the Organization of American States. Inspired by the mandate of the Inter-American Commission on the Control of Drug Abuse, we express our full support for this programs.<sup>1</sup>

We recognize the fundamental importance of strong economies and innovative economic initiatives to the successful conduct of the anti-drug effort. Further progress in the areas of trade and investment will be essential. We support the Enterprise for the Americas Initiative as a means of improving economic conditions in the Hemisphere, and we are encouraged by the progress the countries of the region have made in restructuring their economies.

We reaffirm the importance of alternative development in the anti-drug effort. We note that the victims of narco-trafficking in the region include those sectors of society that live in extreme poverty and that are attracted to illicit drug production and trafficking as a means of livelihood. We consider that if our efforts to reduce illegal drug trafficking are to be successful, it will be essential to offer legitimate options that generate employment and income.

We propose to achieve the objectives and goals defined above in this Declaration and in its attached Strategies for Action.

Recognizing the need to ensure cohesion and progress in our anti-drug efforts, our governments intend to hold a high-level meeting on an annual basis.

In order to broaden international anti-drug efforts still farther, we invite additional countries or representatives of groups of countries to associate themselves with this Declaration.

Done at San Antonio, Texas, on this, the 27th day of February, 1992, in the English and Spanish languages.

For Bolivia

President Jaime Paz Zamora

For Colombia

President Cesar Gaviria Trujillo

For Ecuador

President Rodrigo Borja Cevallos

For Mexico

President Carlos Salinas de Gortari

For Peru

President Alberto Fujimori

For the United States of America

President George Bush

For Venezuela

Foreign Minister Armando Duran

### **Strategies for Drug Control and the Strengthening of the Administration of Justice**

The Countries intend to strengthen unilateral, bilateral, and multilateral enforcement efforts and strengthen judicial systems to attack illicit trafficking in narcotic drugs, psychotropic substances, and precursor and essential chemicals. The Countries are determined to combat drug trafficking organizations through the ar-

<sup>1</sup> Sic.

rests, prosecution, sentencing, and imprisonment of their leaders, lieutenants, members, accomplices, and accessories through the seizure and forfeiture of their assets, pursuant to the Countries' respective domestic legal systems and laws in force. To attain these objectives, the Countries intend to carry out coordinated cooperative actions through their national institutions.

Enforcement efforts cannot be carried out without economic programs such as alternative development.

The Countries request financial support from the international community in order to obtain funds for alternative development programs in nations that require assistance.

#### **(1) Training Centers**

The Countries intend to provide training for the personnel who are responsible for or support the counter-drug battle in the signatory Countries at national training centers already in existence in the region. Emphasis will be given to the specialties of each of these centers in which personnel from governments of the other Countries may be enrolled as appropriate, in accordance with their respective legal systems. The signatory Countries, other governments, and international organizations are encouraged to provide financial and technical support for this training.

#### **(2) Regional Information Sharing**

The Countries intend to expand reciprocal information sharing concerning the activities of organizations, groups, and persons engaged in illicit drug trafficking. The Countries will establish channels of communication to ensure the rapid dissemination of information for purposes of effective enforcement. This information sharing will be consistent with the security procedures, laws, and regulations of each country.

#### **(3) Control of Sovereign Air Space**

The Countries recognize that drug traffickers move illicit drugs via identified air corridors and without regard to international borders or national airspace. The Countries also recognize that monitoring of airspace is an important factor in the apprehension of aircraft and crews involved in illicit drug traffic.

The Countries recognize that there is a need to exchange timely information on potential drug traffickers in and around each country's sovereign air space.

The Countries also agree to exchange information on their experiences and to provide one another with technical assistance in detecting, monitoring, and controlling aerial drug trafficking, when such assistance is required in accordance with the domestic laws of each country and international laws in force.

#### **(4) Aircraft, Airfield and Landing Strip Control**

The Countries, recognizing that private and commercial aircraft are being utilized with increasing frequency in illicit trafficking of narcotic drugs and psychotropic substances, intend to establish and increase the necessary enforcement actions to prevent the utilization of such aircraft, pursuant to the domestic laws of each country and international regulations in force.

The Countries also intend, if necessary, to examine their domestic regulations pertaining to civil aviation in order to prevent the illicit use of aircraft and airports. They will also take the enforce-

ment measures necessary to prevent the establishment of clandestine landing strips and eliminate those already in existence.

The Countries will cooperate closely with each other in providing mutual assistance when requested in order to investigate aircraft suspected of illicit drug trafficking. The Countries, pursuant to their domestic legal systems, also intend to seize and confiscate private aircraft when it has been proven that they have been used in the illicit traffic of narcotic drugs and psychotropic substances.

#### **(5) Maritime Control Actions**

As called for in Article 17 of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the Countries intend to strengthen cooperation to eliminate to the extent possible illicit trafficking by sea. To this end, they will endeavor to establish mechanisms to determine the most expeditious means to verify the registry and ownership of vessels suspected of illicit trafficking that are operating seaward of the territorial sea of any nation. The Countries further intend to punish illicit traffic in narcotic drugs and psychotropic substances by sea under their national laws.

#### **(6) Chemical Control Regimes**

The Countries recognize that progress has been made in international efforts to eliminate the diversion of chemicals used in the illicit production of narcotic drugs and psychotropic substances. They specifically support the "Model Regulations to Control Chemical Precursors and Chemical Substances, Machines and Materials" of the Organization of American States, the chemical control measures adopted at the April 1991 International Drug Enforcement Conference (IDEC) meeting, and the recommendations in the Final Report of the Group of Seven Chemical Action Task Force, published in June 1991.

The Countries call on all nations, and in particular, chemical exporting countries, to adopt the recommendations of the Group of Seven Chemical Action Task Force. They welcome the work of the above-mentioned Task Force and await with interest its report to the 1992 Economic Summit, in which it will make recommendations for the proper organization of worldwide control of those chemical products.

The Countries express their support for including ten additional chemicals in the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, as proposed by the United States on behalf of the Chemical Action Task Force in the US notification to the Secretary General.

The Countries call on the International Narcotics Control Board to strengthen its actions aimed at controlling essential and precursor chemicals.

The Countries intend to investigate, in their respective countries, the legitimacy of significant commercial transactions in controlled chemical products. The Countries call on the chemical producing nations to establish an effective system for certification of end uses and end users.

The Countries will take appropriate legal action against companies violating chemical control regulations.

Studies will be conducted in the countries where narcotic drugs and psychotropic substances are produced in order to quantify the

demand for chemicals for legitimate purposes in order to assist in the control of these products. The United States intends to provide financial and technical assistance for conducting the aforementioned studies and for setting up national data banks.

The Countries urge all nations and international organizations to cooperate effectively with programs aimed at strengthening border control in order to prevent the illegal entry of chemicals.

#### **(7) Port and Free Trade Zone Control**

The Countries intend to implement measures to suppress illicit drug trafficking in free trade zones and ports, as called for in Article 18 of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and in accordance with the recommendations of the Ninth International Drug Enforcement Conference. A group of experts may be required to conduct a specialized study in order to identify the ports and free trade zones in the region that could be utilized for illicit traffic in drugs and chemicals. This study and subsequent reviews will serve as the basis for adopting measures to prevent illicit traffic in drugs and controlled substances in ports and free trade zones.

#### **(8) Carrier Cooperation Agreement**

The Countries are concerned about the difficulties inherent in the identification of suspicious shipments included in the great volume of legitimate commerce. In order to improve the effectiveness, border controls and also facilitate the transit of legitimate merchandise, the Countries intend to enlist the cooperation of air, land, and maritime transport companies. The Countries agree, in principle, to implement common standards and practices in order to include carriers in measures to improve anti-drug security.

#### **(9) Money Laundering**

The 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances establishes a series of measures related to the control of financial assets to which the Countries intend to conform their domestic laws. The Countries support full implementation of this Convention, which requires, inter alia, the criminalization of all money laundering operations related to illicit drug traffic.

The Countries recognize and support the efforts of the Group of Seven Financial Action Task Force. The Countries call upon the Eleventh Meeting of senior-level OAS/CICAD officials to approve the Model Regulations on Money Laundering related to illicit drug traffic.

The Countries intend to make recommendations regarding the following:

- The elements of a comprehensive financial enforcement and money laundering control program;
- Exchange of financial information among governments in accordance with bilateral understandings.

#### **(10) Strengthening the Administration of Justice**

The Countries recognize and support efforts designed to improve their judicial systems, in those cases in which this may be necessary, in order to ensure the effectiveness of those systems in establishing the culpability and penalties applicable to traffickers in illicit drugs. They recognize the need for adequate protection for the persons responsible for administering justice in this area inas-

much as effective legal systems are essential for democracy and economic progress.

The Countries call on all nations to strengthen the United Nations Drug Control Program.

#### **(11) Strengthening Judicial Cooperation**

The Countries support the provisions of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances related to increased cooperation and mutual legal assistance in the battle against illicit drug trafficking, money laundering, and investigations and proceedings involving seizure and forfeiture. The Countries must consider approval of the projects of the OAS Inter-American Judicial Committee on mutual legal assistance in criminal matters and on precautionary measures.

The Countries will encourage the expeditious exchange of information and evidence needed for legal proceedings involving illicit drug trafficking, pursuant to their domestic laws and bilateral and multilateral agreements.

#### **(12) Sharing of Assets and Property**

The Countries shall seek to conclude bilateral or multilateral agreements on the sharing of property seized and forfeited in the struggle against drug trafficking in accordance with the laws in force and the practices in each country. The Countries also consider that asset sharing would encourage international cooperation among law enforcement officials, and that confiscated property would be a valuable source of funds and equipment for combating drug production and trafficking and for preventing drug consumption and treating addicts.

#### **(13) Firearms Control**

The Countries recommend that measures to control firearms, ammunition, and explosives be strengthened in order to avoid their diversion to drug traffickers. The Countries also call for an enhanced exchange of detailed and complete information regarding seized weapons in order to facilitate the identification and determination of origin of such weapons, as well as the prosecution of those responsible for their illegal export.

To this end, the United States intends to tighten its export controls and to cooperate with the Governments of the other Countries to verify the legitimacy of end users.

The Countries consider that close cooperation with the OAS/CICAD is essential in such firearms, ammunition, and explosives control efforts.

#### **(14) Other Cooperative Arrangements**

The Countries recognize that cooperative operations have been a useful tool in the war against drug traffickers in the past. The Countries intend to continue and expand such cooperative measures through their national organizations responsible for the struggle against illegal drug trafficking.

### **Strategies in the Economic and Financial Areas**

The Countries propose to strengthen unilateral, bilateral, and multilateral efforts aimed at improving economic conditions in the countries involved in the cycle of illegal drug production and trafficking. Extreme poverty and the growth of the drug problem are the main reasons that peasants become involved in illegal coca leaf

production. The Countries reaffirm the principles in the Declaration of Cartagena, which accept that alternative economic development is an essential part of the comprehensive plan to reduce illegal trade in narcotic drugs and psychotropic substances. Alternative development cannot succeed in the absence of enforcement and interdiction efforts that effectively reduce this illegal drug trafficking.

The Countries recognize and approve of the structural changes that have taken place in the economies of the Andean countries and Mexico. These changes strengthen stability and increase prospects for economic growth. The Countries recognize that these reforms merit full support. Efforts to attract an increased flow of private investment will provide opportunities for sustained economic growth.

#### **(1) Economic Issues**

The Countries recognize that the Enterprise for the Americas Initiative (EAI) with its three pillars—investment, trade, and debt—offers important means of improving economic conditions in the hemisphere.

All of the Countries have signed bilateral trade and investment framework agreements with the United States. The Countries recognize that these agreements are important to encourage investment and trade liberalization, and they intend to move ahead with the three pillars of the EAI as follows:

##### **(a) Investment**

The Countries recognize the critical importance of enacting laws and taking steps that encourage private investment and economic development. In this regard, the Countries have expressed their willingness to negotiate parallel bilateral agreements to protect intellectual property rights, as well as bilateral investment agreements, and others that promote trade liberalization. For this purpose, the Enterprise for the Americas Initiative includes trade and investment framework agreements.

The Countries express their satisfaction with the establishment of the Multilateral Investment Fund under the aegis of the Inter-American Development Bank [IDB]. The Countries consider this Fund important to provide technical assistance and to encourage private investment.

The Countries note that the move towards a market economy in Latin America is a good vehicle for generating sustained economic growth, with benefits throughout society. They therefore view with interest experiences in privatizing services and industries that can serve to attract a significant flow of direct foreign investment. The initiation of operations by the Multilateral Investment Fund and technical assistance in support of privatization efforts will aid in the development of market economies. Some Andean countries plan to proceed with privatization programs and reforms of financial systems to the degree and depth possible in each country.

The Andean countries state that facilitating access to the 936 funds would have a catalytic effect in attracting private investment to that subregion.

The profound structural changes in the region make the active participation of financial entities in funding private projects more important than ever before. The Countries urge entities such as the



International Finance Corporation (IFC) and the Inter-American Investment Corporation (IIC) to continue working with the Andean region. The countries of the Andean region are pleased by Mexico's participation as a stockholder in the Andean Development Corporation (ADC), which is a suitable channel for development activity in the subregion, particularly for the private sector, within a framework of productive integration. These countries express their interest in also being able to count on active participation by the United States Government in the ADC. The United States takes note of that interest.

#### **(b) Trade**

The Countries express their satisfaction regarding enactment of the Andean Trade Preference Act which allows the countries of the Andean region to export a wide variety of products to the United States for a ten-year period without paying duties. Those eligible countries that wish to benefit from this law will take the required steps. The United States, furthermore, plans to implement the provisions of this law as rapidly as possible in order to extend its benefits to the countries determined to fulfill the criteria in the law. The Andean countries also express their interest in having these preferences extended to Venezuela.

The countries recognize that the proposed North American Free Trade Agreement will be an important step in the process of creating a hemispheric free trade agreement in accordance with the Enterprise for the Americas Initiative. The Countries stress the importance of continued economic integration and trade liberalization efforts.

#### **(c) Debt**

The Countries express their satisfaction with the progress achieved by some Andean countries and Mexico in renegotiating their debt with the private international banking system and intend, when appropriate, to continue to support reduction of this debt. The Countries point out that the economic reforms implemented by Bolivia have already made it possible for that country to benefit from the reduction of a large part of its bilateral debt with the United States under the auspices and in the spirit of the Enterprise for the Americas Initiative, which will make it possible to implement environmental projects in Bolivia. The Government of the United States will continue to take the necessary steps to obtain the legislative approval required for the debt categories that still do not have this authorization.

#### **(2) Alternative Development**

The Countries acknowledge that the goals of the Cartagena Declaration regarding the substitution of other agricultural products for coca and other plants that feed the drug cycle, and the creation of new sources of licit income, have not yet been fully achieved. The Countries note that in a major new initiative, the United States—in consultation with Bolivia, Colombia, Ecuador, and Peru—is engaged in a program to provide training and technical assistance in agricultural marketing that will stress participation by the private sector as well as assistance for animal and plant health. The Countries applaud this program and intend to facilitate its implementation to the maximum extent possible.

Notwithstanding assistance already pledged by the United States and the United Nations, the Countries recognize the need to establish a broad basis of funding for alternative development. For this reason, and given the world-wide range of illicit narcotics, the Countries intend to strive for increased participation of countries such as Japan and others as well as international financial agencies and institutions such as the World Bank, the Inter-American Development Bank, the European Community, the OAS, the OECD, and others. The Andean nations believe, and the United States takes note, that such actions should also include the establishment of a facility for alternative development in an international financial institution. The Countries are determined to enlist the support of the international community in their fight against drugs.

The Countries support the work of the OAS/CICAD Group of Experts charged with reviewing the alternative development approach and recommending ways to enhance it.

Under the alternative development program, the Countries recognize the importance of implementing short-term projects such as emergency food programs, food for work, and income and employment generation. The Countries recognize that these efforts must simultaneously accompany eradication efforts in order to reduce the economic impact on coca leaf producers. These short-term actions must be aimed at producing jobs and temporary income until such time as the alternative development projects are fully developed.

The Countries underscore the need for alternative development programs to be strengthened in coca leaf producing countries, or in those countries with areas that have potential for producing plants from which elements utilizable in the production of narcotics and psychotropic drugs can be extracted, so as to reduce the supply of raw material that feeds the narco-trafficking cycle. These programs will help farmers have different economic alternatives, which will allow them to move away from illegal coca production.

The Countries acknowledge the progress achieved in alternative development in Bolivia and the beginning of alternative development activities in Peru. In this context, the Countries note the bilateral agreements with the United States signed by Peru and by Bolivia to implement alternative economic development and drug control programs, as useful experiences applicable to other countries. These two most salient examples are summarized as follows.

#### **Bolivia**

In Bolivia, with the firm support of the United States, efforts undertaken to develop other crops in coca producing zones, as well as in those areas from which people have been expelled, are having some success, starting with the production of genetic material with a proven biological viability, acceptable rate of return, and a potential for export. Technical assistance and credit, as well as continued training of farmers, permit the achievement of a good level of technology transfer.

Actions taken in the infrastructure area have made it possible to improve the means of transporting agricultural products to consumer markets and processing them.

Aggressive marketing is slowly allowing the opening of internal markets to the first items of this production, in accordance with phytosanitary and quality control requirements. The support being given to the social dimension by providing infrastructure in the health and education sectors is making it possible to improve the quality of life of the rural population.

A new five-year project, which will start in early June of 1992, will provide continuity and strengthen key activities, such as marketing and private investment.

Multilateral cooperation through the United Nations Drug Control Program (UNDCP) has also assisted in the alternative development process, especially in basic sanitation, roads, energy, and agroindustry.

Nevertheless, based on the above-mentioned Bolivian experiences, it is recommended that:

1. Recognition be given to the fact that implementation of coca reduction policy has to be adapted to the pace of alternative development in order to reduce the gap between the loss of income and its replacement. It is evident that the success in alternative development will discourage farmers from growing coca.

2. Recognition be given to the importance of full and active participation by the farmers in alternative development processes.

3. Bilateral and multilateral cooperation in alternative development be considered with regard to its specificity. It should include comprehensive, multisectoral, and long-term program guidance and should also be sufficiently flexible, broad, and timely to be able to promote qualitative changes beyond the short term.

### Peru

In the case of Peru, progress can be summarized by the following points:

- The participation of the United States Government and Japan in the support group for the reentry of Peru into the international financial community. This allows the IDB and other bilateral donors to provide funds.

- The carrying out of massive food aid programs, promotion of a favorable economic policy framework for the development of the private sector, and the liberalization of two-way trade.

- The existence of projects, especially in the Upper Huallaga Valley where 14,000 farmers have received technical assistance in seed research, production, and marketing. The project provided credit and land titles and made it possible to resurface 1,200 kilometers of roads and to set up potable water systems, health posts, and latrines.

- The massive support received by President Fujimori from the rural population in the coca producing areas.

- Plans for 1992 that call for the resurfacing of the road linking the Upper Huallaga Valley to the coast, a program for recognizing and awarding property rights, and the participation of multinational firms interested in investing in alternative development projects.

- All this has been achieved in spite of insidious narco-trafficking, terrorism, and the alliance between the two. Under the Agreement on Narcotics Control and Alternative Development signed on May 14, 1991, which includes aspects relating to interdiction and

security, an autonomous Peruvian institution will be responsible for distributing the necessary resources. This institution and its US counterpart will hold meetings to implement the shared strategy, immediately after the Presidential Summit in San Antonio.

—With respect to respect to human rights, the importance of conducting the anti-drug struggle within the framework of international standards is stressed.

—With respect to the citizens' commitment to the anti-drug effort, emphasis is placed on the need for them, to have access to information and for efficient legal and administrative systems to exist.

—In order to have adequate farmer participation, consideration should be given, among other requirements, to:

- (a) Creating the democratic tools that make it possible to involve the people directly in the decision-making process;
- (b) Recognizing, awarding, and registering property rights;
- (c) Concluding crop substitution agreements with farmers;
- (d) Ensuring that eradication programs take into account the safeguarding of human health and preservation of the ecosystem;
- (e) Fostering new economic opportunities, such as alternative development and crop substitution programs, that will help to dissuade growers from initiating or expanding illegal cultivation;
- (f) Implementing reforestation programs in those areas where coca has been eradicated but where the land is not suitable for farming;
- (g) Substantially facilitating access to business activity and to credit;
- (h) Abolishing bureaucratic obstacles and mechanisms, particularly those that limit the production, marketing, and exportation of alternative goods; [and]
- (i) Promoting the participation of all countries interested in providing technical solutions and conducting specific alternative development projects with the peasants and/or their organizations.

### **(3) The Environment**

The Countries express their concern regarding the severe damage that coca cultivation and illegal processing of coca derivatives are causing to the environment of the Andean region. The slash-and-burn method employed by coca and opium poppy growers causes severe erosion of the soil, and indiscriminate disposal of the toxic chemicals used to produce coca derivatives is poisoning the rivers and the water table. These activities enrich a small group of traffickers and cause harm to thousands of people.

The United States Government notes that it is helping the Andean governments address the serious environmental problems caused by illegal coca and opium production. The United States is providing technical assistance and training under comprehensive environmental management programs that are important components of alternative development projects. The United States is providing assistance for watershed management, farm-level and community forestry, reforestation and environmental restoration, education on environmental problems, and environmental monitoring

programs. These efforts are designed to prevent damage to-and to restore the soil, water, and forest resources, thereby improving the quality of life and expanding opportunities for those who abandon, or never initiate coca production in favor of alternative crops. The Countries agree that such technical assistance and training services must be designed to strengthen the capacity of Andean governments to protect their countries' natural environment.

The Countries agree to design and implement suitable programs to reduce the negative ecological impact of coca production and ensure that security, interdiction, and substitution activities take the protection of the ecosystem into account.

### **Strategies for Prevention and Demand Reduction**

The Countries recognize that consumption of, and illicit traffic in, drugs and psychotropic substances are a comprehensive problem, and that it can therefore be resolved only if control, interdiction, and supply reduction measures are accompanied by vigorous and effective action in demand reduction.

It is also necessary for society, including its members who consume illegal drugs and those who are involved in illicit drug traffic or the cultivation of plants intended for conversion into illicit drugs, to be made aware of the harmful consequences of the production, traffic, and consumption of illicit drugs. It is imperative to provide warnings about the dangers of violence, crime, corruption, environmental damage, addiction, and the dissolution of society and the family resulting from the drug problem.

The Countries are convinced that raising awareness regarding the harmful impact of drug-related offenses will motivate society to develop a culture that rejects drug use and to support vigorously efforts to combat supply and demand. In order to support this awareness campaign, the Countries agree to assume the responsibility, either individually or jointly, to conduct long-term programs to inform the public through the appropriate mass media and other information resources.

The Countries also call on their respective private sectors to combine efforts to create a culture that rejects drugs.

In this regard, the Countries are aware that demand can be controlled and reduced and that the basis can be laid for increasing awareness by, means of continuous, systematic actions that include:

#### **(1) Prevention**

The Countries consider that prevention must be a priority aspect of national strategies to reduce the demand for drugs.

In order to prevent consumption of drugs and dissuade occasional users, the Countries must include in their national and drug control strategies comprehensive prevention programs that include, among other things:

##### **(a) Education**

The Countries recognize that education is fundamental in the up-bringing of the individual and the creation of positive values and attitudes toward life, and that the educational system at all levels and in all its forms is a suitable tool to reach most of the people. Consequently, the Countries undertake to engage in additional educational efforts for comprehensive prevention of drug use from

pre-school through higher education, by means of scientific research, in order to create an attitude and a culture that rejects drugs and in which the family and the community play a fundamental role.

### **(b) Community Mobilization**

The Countries wish to emphasize the importance of mobilizing all sectors of society against drugs as a fundamental part of national prevention efforts. This mobilization includes carrying out actions at the individual, family, and social levels by means of activities that include recreation, sports, and cultural events that make it possible to achieve a total rejection of drug consumption.

### **(2) Treatment and Rehabilitation**

In order for drug addicts to receive suitable assistance, the Countries consider that it is necessary to increase their capacity with regard to treatment and rehabilitation, in addition to improving the quality of services. The Countries consider that these programs must be designed not only to rehabilitate but also to help them re-enter society.

The Countries believe that treatment and rehabilitation are basic in reducing the consequences arising from drug use, including AIDS transmission, societal violence, and the destruction of the family and social structure.

### **(3) Scientific Research**

The Countries recognize that it is necessary to establish programs for basic and social research, including epidemiology, in their national strategies. Epidemiological programs must be conducted using a methodology that makes it possible to compare findings at the regional and international levels. These findings will also be useful in evaluating prevention programs. The Countries undertake to exchange information on drug abuse through a regional information network and to support initiatives to establish a data bank on this subject, especially within the framework of CICAD.

### **(4) Training**

The Countries undertake to cooperate by providing appropriate technical assistance for the education and training of human resources in these areas.

The Countries will also endeavor to consult with one another and exchange information on the prevention of illicit drug use, treatment, rehabilitation, and scientific research. In this regard, they agree to cooperate in order to determine the most effective ways to utilize the research findings in implementing the various programs.

### **(5) National Councils**

The Countries are convinced that the creation of national councils to coordinate efforts to develop strategies against illicit drugs has made an important contribution to the development of prevention, treatment, and rehabilitation programs in all the countries.

### **(6) Follow-Up**

The Countries undertake to engage in ongoing follow-up of the actions described above. To that end, they will assign responsibility to their national councils in line with OAS/CICAD programs.

## **G. Inter-American Program of Action of Rio de Janeiro Against the Illicit Use and Production of Narcotic Drugs and Psychotropic Substances and Traffic Therein**

**INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION**

**RIO DE JANEIRO, APRIL 1986**

### **PRINCIPLES AND OBJECTIVES**

This Program of Action is based on the following principles, which also provide action for its overall goals and objectives:

1. The principal goal of socioeconomic development is to improve standards of living and quality of life. Policies adopted to reduce the demand for drugs, prevent drug abuse, and combat unlawful trafficking in drugs must, in the final analysis, also serve this main purpose;

2. Socioeconomic development cannot flourish in an environment lacking in conditions conducive to personal dignity, democracy, and state security;

3. The prevention of drug abuse and the campaign against trafficking in drugs are interrelated with socioeconomic development, and each can influence the other. Adoption of this Program of Action reflects recognition by the inter-American community of the importance of that interrelationship;

4. Policies to reduce the demand for drugs, prevent drug abuse, and combat unlawful trafficking in drugs must be included in the socioeconomic development policies of the member states. They must also be consistent with human rights, the basic claims to nationally and internationally recognized individual liberties and rights, respect for the traditions and customs of national and regional groups, and environmental protection;

5. Recommendations made under this Program of Action take into account the imperative need for respect for the sovereignty of nations in determining their policies to reduce the demand for drugs, prevent drug abuse, and combat drug trafficking, for the diversity of domestic conditions obtaining in the countries of the Americas, and for the specific regional features existing in each country;

6. Drug trafficking constitutes a global phenomenon that can threaten both the sovereignty of states and the integrity and identity of people; and

7. International cooperation, whether bilateral or multilateral, is becoming increasingly vital to the effectiveness of efforts to reduce the demand for drugs, prevent drug abuse, and combat unlawful trafficking in drugs. It is of mutual interest to the countries that produce, use, or serve as transit points for drugs that such cooperation should develop free of pressures of any kind.

In keeping with the above cited principles, the main objectives of the Program are to increase and strengthen the capacity of the member states to reduce the demand for drugs, prevent drug abuse, and effectively combat unlawful production of and trafficking in drugs. The Program also seeks to elicit an appropriate interAmerican response through an increase in regional activities in the fields of research, exchange of information, training of specialized personnel, and the furnishing of mutual assistance.

#### CHAPTER I

The Inter-American Specialized Conference on Traffic in Narcotic Drugs recommends to the OAS member states the following actions to prevent the improper demand for and abuse of narcotic drugs and psychotropic substances:

1. Assignment of top priority to measures to reduce the improper demand for, and abuse of, narcotic drugs and psychotropic substances;

2. Carrying out of epidemiological and other relevant studies to identify the causes and prevalence of drug abuse in the various age brackets and social strata of the national populations, taking into account the regional peculiarities of each country;

3. Promotion of studies to increase knowledge of the most appropriate ways of making society aware of the causes and effects of drug abuse, taking into account the regional peculiarities of each country;

4. Promotion of programs for the treatment and rehabilitation of drug addicts. Such programs should involve the participation of the Inter-American Specialized Organizations, particularly the Pan American Health Organization;

5. Promotion of primary prevention campaigns through education, social welfare, and health departments and other relevant agencies, with a view to enlisting maximum community participation;

6. Establishment of mechanisms in the appropriate governmental agencies for supervising and controlling the production, marketing, and use of legal drugs within the context of national policies;

7. Promotion of studies on the medical prescription of drugs that act on the central nervous system and the social repercussions of self-medication of such drugs; and

8. Carrying out of studies on the harmful effects on the use of inhalants and on mechanisms for controlling their sales, taking into account the necessary social solutions to the problem.

#### CHAPTER II

The Conference also recommends to the OAS member states the following actions to combat the unlawful production and supply of narcotic drugs and psychotropic substances:

1. The development and expansion of mechanisms for an exchange of information on the structures of illegal marketing and any other aspects of unlawful trafficking in drugs among affected nations;

2. The study—and possible approval—of draft legislation designed:



- i. to strengthen the ability of appropriate agencies to investigate and prosecute unlawful drug trafficking, including their ability to trace the origin of monies deposited in or transferred among financial and other business institutions by drug traffickers;
  - ii. to forfeit assets derived from or used to facilitate drug trafficking, irrespective of where such trafficking occurred; and
  - iii. to treat as a punishable offense the acquisition, possession, use, or so-called laundering of assets that are known to be directly or indirectly the proceeds of unlawful drug trafficking, irrespective of where such trafficking occurred, and to enable such assets to be forfeited;
3. The establishment of rigid controls on the manufacture, importation, exportation, transport, and marketing of solvents, precursors, and chemical products essential to the preparation of narcotic drugs and psychotropic substances;
  4. The establishment of judicial, police, and customs cooperation mechanisms among member states to obtain more effective action in this field;
  5. The substitution, under appropriate conditions, of illegal crops from which narcotic drugs and psychotropic substances may be extracted, when required by the socio-economic conditions prevailing in the areas of cultivation;
  6. The eradication, by biologically and environmentally sound methods, of illegal crops—as defined by each state—from which narcotic drugs and psychotropic substances may be extracted;
  7. Research in order to develop biological methods for the eradication of illegal crops;
  8. The drafting and implementation of effective controls for the issuance of permits, classification, marketing, importation, and exportation of such legal production as takes place within the quantitative limits determined each year by the International Narcotics Control Board; and
  9. Research on new legal uses for plants from which narcotic and psychotropic substances may be derived, provided those substances are subject to government control.

### CHAPTER III

The Conference further recommends to the member states of the OAS the following general measures *to combat the illicit use and production* of narcotic drugs and psychotropic substances and traffic therein:

1. Establishment of central agencies at the national level charged with formulating the respective national plans, policies, and programs regarding narcotic drugs and also with exercising general coordination, supervision, control, and monitoring of activities related to drug abuse and unlawful trafficking in narcotic drugs and psychotropic substances;
2. Encouragement of contacts between the above mentioned central agencies and public and private national, regional, and municipal organizations that are engaged in the prevention of drug abuse and the treatment of drug addicts;

3. Establishment of a national fund for the prevention of drug abuse and the campaign against unlawful drug trafficking. Such a fund could be made up from the following sources, among others:

- i. voluntary public and private contributions;
- ii. specific government budgetary allocations; and
- iii. funds and assets linked to unlawful drug trafficking that have been seized by the competent national authorities.

4. Encouragement of efforts to facilitate implementation of the recommendations and suggestions of the First Seminar on the illicit Traffic for Law Enforcement Officers of the Anglophone Caribbean, held in Nassau, The Bahamas, on March 22-31, 1983, with particular reference to measures which could reduce the vulnerability of the Caribbean subregion to illicit sea and air transit traffic.

#### CHAPTER IV

To help the member states implement the actions and institute the measures set forth in Chapters I, II and III through regional cooperation, the Conference recommends:

1. *To the General Assembly of the OAS*

a. That it establish an Inter-American Drug Abuse Control Commission (CICAD), composed of representatives of member states. That Commission would be responsible for developing, coordinating, evaluating and monitoring the measures prescribed in this Program of Action and for submitting proposals to increase the effectiveness of prevention of drug abuse and of the campaign against trafficking in narcotic drugs and psychotropic substances in the region, and

b. That it consider the adoption of financing mechanisms—including the possible establishment of a regional fund—to promote within the region activities and programs aimed at preventing drug abuse and combatting unlawful drug trafficking, with special attention to assistance that might be made available by the United Nations Fund for Drug Abuse Control, based on the study to be carried out by the General Secretariat of the Organization.

2. *To the Inter-American Juridical Committee*

That it conduct juridical research to help the member states explore the advisability of:

a. Adopting specific bilateral or multilateral instruments on particular aspects of drug abuse and unlawful trafficking in drugs, including mechanisms for extradition and for cooperation among judicial, police and customs authorities of the member states, leading to more effective action against all drug traffickers;

b. Seeking to harmonize national laws on trafficking;

c. Coordinating at the national level judicial, police, and customs procedures with respect to unlawful trafficking; and

d. Promoting regional cooperation in the judicial, police, and customs areas with respect to unlawful trafficking.

3. *To the General Secretariat of the OAS*

a. That it establish a data bank on drug abuse and unlawful trafficking in drugs at the headquarters of the Organization. Such a bank would be at the disposal of all the member states

and would be compatible with similar systems already in existence;

b. That it set up inter-American training centers for basic and professional training in the areas of education, treatment and rehabilitation, police action, and control, in order to prevent drug abuse and combat unlawful drug trafficking in the member states, taking advantage of existing national and subregional structures;

c. That it establish a documentation center on drugs, at the headquarters of the Organization, to promote coordinated inter-American efforts in this area;

d. That it increase coordination and cooperation between the OAS and the appropriate United Nations agencies, the South American Accord on Narcotic Drugs and Psychotropic Substances (ASEP), the Caribbean Community, and other subregional entities, to render their activities compatible and complementary;

e. That it conduct studies necessary to prepare the draft Statute and Regulations of CICAD, which should be presented as soon as possible to the Permanent Council for study and possible transmittal to the General Assembly;

f. That it prepare an annual report on the problem of drug abuse and unlawful trafficking in drugs in the region, to be submitted to the member states through CICAD; and

g. That it submit to the sixteenth regular session of the General Assembly a study of financing mechanisms—including the possible setting up of a regional fund—to promote activities and programs within the region to prevent abuse of and combat unlawful traffic in drugs, with special attention to assistance that might be made available by the United Nations Fund for Drug Abuse Control.

#### 4. *To the Inter-American Specialized Organizations*

That they cooperate in the implementation of this Program of Action, with special importance being assigned to any assistance that might be provided to this end by the Inter-American Indian Institute, the Inter-American Children's Institute, the Inter-American Commission of Women, the Inter-American Institute for Cooperation on Agriculture, and the Pan American Health Organization.

## **H. Declaration and Program of Action of Ixtapa**

### **INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION**

(APPROVED IN IXTAPA, MEXICO, APRIL 20, 1990)

The high-level representatives of the member states of the Organization of American States, responsible for the control of illicit drug trafficking and abuse, meeting in Ixtapa, Mexico, April 17-20, 1990, at the Meeting of Ministers on the Illicit Use and Production of Narcotic Drugs and Psychotropic Substances and Traffic Therein—Alliance of the Americas Against Drug Traffic;

Based on the principles, rights and duties of the states embodied in the Charter of the OAS, and on the principles, goals and general objectives of the Program of Action of Rio de Janeiro Against the Illicit Use and Production of Narcotic Drugs and Psychotropic Substances and Traffic Therein (Program of Action of Rio de Janeiro), and on the solidarity in the fight against drug trafficking, proclaimed in the Declaration of Guatemala "Alliance of the Americas against Drug Trafficking";

Based on the resolutions adopted by the General Assembly of the Organization that emphasize the urgent need to safeguard their peoples, their democratic institutions and their economies from the dangers of drug trafficking;

Inspired by the Declaration and the agreements recently signed in Cartagena de Indias by Bolivia, Colombia, Peru and the United States, by the Political Declaration and Global Programme of Action adopted by the United Nations General Assembly at its Seventeenth Special Session, and by the Declaration of the World Ministerial Summit held in London in April 1990;

Deeply concerned by the increase in the Americas of the illicit demand for and cultivation, production, supply, transit, distribution and use of narcotic drugs and psychotropic substances, as well as of substances frequently used in their manufacture, and the laundering of money derived from these illegal operations—activities that breed corruption and violence increasingly tied to clandestine arms trafficking, terrorism and subversion and that constitute a grave and persistent threat to the fabric of society, to the political stability of countries, to the growth and consolidation of democracy, to the rule of law, to balanced socioeconomic development, to the environment, to public health and to the welfare of their peoples, especially the younger generations;

Noting that the large financial profits and wealth derived from illicit drug trafficking and related criminal activities enable transnational criminal organizations to penetrate, contaminate and corrupt the structures of governments, legitimate commercial activities and society at all levels, thereby compromising economic and social development, distorting the process of law and undermining the foundation of states;

Recognizing that a growing number of member states are affected by drug trafficking, which forces them to divert resources away from pressing national needs;

Condemning once again the crime of illicit drug trafficking, which transcends the borders of member states, and convinced that its elimination demands a common front involving uninterrupted, priority activities as part of each government's respective programs, based on the principles of international solidarity and collective responsibility, with absolute respect for the sovereignty of each state and in accordance with its own situation;

Recognizing the links between the illicit demand for and cultivation, production, supply and distribution of narcotic drugs and psychotropic substances and traffic therein, and the economic, social and cultural conditions in the countries thus affected;

Emphasizing the imperative need for an objective and in-depth knowledge of the factors that lead to, cause or foster drug trafficking, and underscoring the fact that to be more effective, this battle must be waged on all fronts; and

Supporting fully the Inter-American Drug Abuse Control Commission (CICAD) in its efforts to put into effect the measures in the Program of Action of Rio de Janeiro to promote cooperation and coordination between the member states and with the pertinent organs of the United Nations, for the purpose of promoting an ever more effective response to the scourge of drugs in the Americas,

#### RESOLVE:

1. To condemn once again illicit drug trafficking in all its forms and to recognize that it is a criminal activity that affects all mankind.

2. To assign top priority, based on the principle of collective responsibility, to the fight against drug trafficking and to redouble national and international efforts in this field in strict accordance with the principles of the Charter of the Organization, in particular national sovereignty, territorial integrity and nonintervention.

3. To support the agreements contained in the Declaration of Cartagena and in the Political Declaration and Global Programme of Action of the aforementioned Seventeenth Special Session of the United Nations General Assembly, and particularly recognize the close linkage that exists between the global struggle to eliminate the illicit consumption and production of narcotic drugs and psychotropic substances and traffic therein, and the capacity of our nations to address this situation, which forces the diversion of scarce resources and thereby affects urgent development needs, making international coordination and cooperation a priority.

4. To reiterate their decision to broaden and increase the scope of inter-American cooperation and coordination through CICAD.

#### THE HIGH-LEVEL REPRESENTATIVES FURTHER AGREE TO ADOPT THE FOLLOWING PROGRAM OF ACTION:

1. To promote in their respective countries the actions necessary to ratify or accede to, as the case may be, the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, signed in Vienna, December 20, 1988, so that it may enter into force in 1990.

2. To approve the actions taken by CICAD to facilitate the harmonious application by the member states of the provisions of the aforementioned Convention, in order to effect its full implementation in the Americas through the broadest possible intergovernmental cooperation.

3. To recommend to the General Assembly that it instruct CICAD to identify, in consultation with the Inter-American Juridical Committee, areas in which the member states might consider more strict or severe regional measures than those provided by the 1988 Vienna Convention, in accordance with Article 24 of that Convention, to prevent or suppress illicit traffic in narcotic drugs and psychotropic substances.

4. To recommend that national laws and the means and instruments to enforce them be updated or modernized so as to establish stricter, surer, more expeditious and more effective penalties and means to combat drug trafficking.

5. To urge the member states to monitor more effectively the production and marketing of precursors and chemical substances that are used for the illicit manufacture of narcotics drugs and psychotropic substances. To that end, it is necessary to develop and upgrade systems for controlling and monitoring those chemicals; to improve intelligence activities concerned with the procurement, transit routes, storage, and use of such products; to establish controls at critical points to prevent the illegal diversion of those chemicals, machines, and materials; to exchange timely information on the movements of those chemicals; and to classify as a crime the unmonitored marketing of those chemicals. Moreover, to recommend to the member states that they promptly adopt the Model Regulations to Control Chemical Precursors and Chemical Substances, Machines and Materials, prepared by the Group of Experts convened by CICAD; to recommend to the General Assembly that it forward these Regulations to the United Nations Commission on Narcotic Drugs for consideration and possible adoption of bilateral and multilateral agreements to achieve greater control of precursors and chemical substances.

6. To emphasize the need for legislation that defines as a crime all activities related to the laundering of property and proceeds related to illicit drug trafficking and which makes it possible to identify, trace, seize and forfeit such property and proceeds.

To recommend to the member states that they encourage banks and financial institutions to cooperate with the competent authorities to prevent the laundering of property and proceeds related to illicit drug trafficking and to facilitate the identification, tracing, seizure and forfeiture of such property and proceeds.

To recommend to the member states that, within the framework of their respective legal systems, they consider developing mechanisms and procedures for bilateral and multilateral cooperation to prevent the laundering of property and proceeds related to illicit drug trafficking and to facilitate the identification, tracing, seizure and forfeiture of such property and proceeds.

To recommend to the General Assembly that it direct CICAD to convene an inter-American group of experts to draft model regulations in conformity with the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988, to:

- criminalize the laundering of property and proceeds related to illicit drug trafficking;
- prevent the use of financial systems for the laundering, conversion or transfer of property and proceeds related to illicit drug trafficking;
- enable authorities to identify, trace, seize and forfeit property and proceeds related to illicit drug trafficking;
- change legal and regulatory systems to ensure that bank secrecy laws do not impede effective law enforcement and mutual legal assistance; and,
- study the feasibility of reporting large currency transactions to national governments and permit the sharing between governments of such information.

To recommend to the General Assembly that it forward the model regulations to the United Nations General Assembly for consideration by its Expert Group on Money Laundering created under United Nations General Assembly Resolution No. 44/142.

7. To recommend to the General Assembly that CICAD organize, to the extent its resources allow, other groups of experts on the most important topics in connection with the application of the aforementioned United Nations Convention and the priority problems that follow from the inter-American fight against drugs, including the impact of cultivation and production, and of the means used for the eradication of such crops and destruction of illicit narcotic substances on the environment.

8. To reiterate the importance of adopting and implementing measures to reduce and eliminate demand as an essential condition for combatting the drug problem and to support the actions taken by the Inter-American Drug Abuse Control Commission and the Inter-American Council for Education, Science and Culture in the development of the Inter-American Program of Education for Prevention, including:

- the Inter-American Meeting to be held in Quito, May 28-June 1, 1990, which should establish the foundations for this Program;
- the preparation and implementation of a comprehensive, systematic and ongoing drug abuse prevention plan, coordinated with the formal education system as well as nonformal education, which includes the enactment of laws to make its implementation possible. The purpose of that plan is to promote community participation and to bring about an awareness of the problem, based on the commitment and joint responsibility of all sectors of society;
- public information activities to disseminate data on the political, economic and social impact of drug trafficking and the human, legal and moral effects of drug abuse, seeking media support for this purpose;
- studies, in collaboration with the Pan American Health Organization, on epidemiology of drugs and different low-cost systems for the treatment and rehabilitation of the drug dependent.

9. To recommend to the General Assembly of the Organization that it request CICAD to continue its work with member states,

the Division of Narcotic Drugs of the United Nations, UNFDAC, INTERPOL, the Customs Co-operation Council and other international and regional bodies to design and implement a strategy and program to improve the training of officials responsible for combatting drugs in the region.

10. To adopt in their respective countries the measures needed to perfect those countries' intelligence systems on drug traffickers, particularly as to their methods and routes, and when appropriate, to share this intelligence with the other member states through the most suitable bilateral and multilateral channels.

11. To urge the governments that, while respecting the sovereignty and territorial integrity of states, they reinforce cooperation, conduct adequate border controls and institute more effective measures to prevent the activities of drug traffickers in border areas, in keeping with their respective legal systems.

12. To recommend to all the states that they review, as soon as possible, their national laws and other administrative procedures, so as to be able to ensure effective control of the production, purchase, sale and distribution of arms and explosives, and in so doing, to develop actions aimed at preventing them from being diverted toward illicit activities. CICAD is asked to prepare a study on the present situation as regards the smuggling of arms and explosives in the hemisphere and its repercussions on and ties to drug trafficking, for which the member states are encouraged to cooperate by furnishing the relevant information.

13. To recommend to the General Assembly that CICAD, to the extent that its resources permit, cooperate with the member states that so request in the analysis and development of judicial procedures to facilitate legal action against drug traffickers in their respective jurisdictions.

14. To recommend to the General Assembly that CICAD, in consultation with the Inter-American Institute for Cooperation on Agriculture (IICA), the Inter-American Development Bank (IDB), the Andean Pact, the Inter-American Economic and Social Council, and other institutions, convene a group of experts to (a) evaluate experience with programs for the eradication of illicit crops and income substitution for growers; and (b) propose to the member states appropriate strategies to eliminate illicit production, to prevent its spread to other areas of the region, and to expand trade and investment opportunities within the context of a vigorous anti-drug program and sound economic policy.

15. To support the agreements of the Cartagena Summit contained in the Political Declaration and the Global Programme of Action of the Seventeenth Special Session of the United Nations General Assembly and the World Ministerial Summit to Reduce Demand for Drugs and to Combat the Cocaine Threat, held this year, which refer, inter alia, to policies for the eradication of illicit coca crops, substitution of those crops, and programs for alternative development. These policies emphasize the strengthening of socio-economic plans, as well as investment programs in which multilateral organizations and governments of developed countries would participate to attain efficient economic conditions which assure the success of crop substitutions, within the framework of sound economic policies and vigorous anti-drug actions.



16. To recommend to the General Assembly that the Secretary General of the Organization consult with the Secretary General of the United Nations on measures needed to ensure coordination and cooperation between CICAD and corresponding organs of the United Nations.

17. To recommend to the General Assembly that the proportion of financial and technical resources of the Organization allocated to the activities related to the implementation of the Program of Action of Rio de Janeiro be increased.

18. To urge the member states, permanent observers and organizations to contribute to the Inter-American Fund of the Program of Action of Rio de Janeiro (Fund 85).

19. To recommend to the General Assembly of the Organization that it express the appreciation of the member states to the permanent observer states and the Inter-American Development Bank for their financial support of the activities of CICAD in the struggle against drugs and request them to continue their support.

20. To recommend to the General Assembly of the Organization that it request the organs, agencies and entities of the inter-American system to give special consideration, in their programming, to activities related to the struggle against drugs, in the context of the Program of Action of Rio de Janeiro and the Program of Action of Ixtapa.

# **I. Model Regulations to Control Chemical Precursors and Chemical Substances, Machines and Materials**

## **INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION**

IXTAPA, MEXICO—APRIL 1990

### **INTRODUCTION**

In light of the provisions of the 1961 Single Convention on Narcotic Drugs, as amended by the Protocol of 1972 amending the Single Convention on Narcotic Drugs, 1961, the 1971 Convention on Psychotropic Substances, the 1987 Quito Conference on Essential Chemical Products for the Production of Cocaine, and the 1988 United Nations Convention against the illicit Traffic in Narcotic Drugs and Psychotropic Substances, the General Assembly of the Organization of American States (OAS) recommends to the member states that, in accordance with the fundamental provisions of their respective domestic legislative systems, they take the following measures aimed at the control of chemical precursors and other specific chemical products, machines and materials used in the production, manufacture, preparation, importation, exportation and/or any other type of illicit transaction involving narcotic drugs and psychotropic substances or others having a similar effect.

#### **I. PURPOSE AND SCOPE OF APPLICATION**

A. The purpose of this provision is to monitor and control the production, manufacture, preparation, importation, exportation, distribution and/or other type of transaction involving chemical precursors and other specific chemical products, machines and materials used in the production, manufacture, preparation, or extraction of narcotic drugs, psychotropic substances or other substances having a similar effect.

B. This provision shall be applicable in all national jurisdictions, including free-trade zones and free ports or other customs operations.

#### **II. DEFINITIONS**

The following definitions shall be applicable throughout the text of the Model Regulations except when another is expressly indicated or the context calls for another interpretation:

A. Chemical precursors (hereinafter "precursors"): Substances that can be used in the chemical processes involved in the production, manufacture and/or preparation of narcotic drugs, psychotropic substances or substances having similar effects and that incorporate their molecular structure into the final product, which makes them essential for those processes.

B. Other specific chemical products (hereinafter "other chemical products"): Substances such as solvents, reagents or catalysts that, though not precursors, can be used in the production, manufacture and/or preparation of narcotic drugs, psychotropic substances or substances having similar effects.

C. Machines and materials: Equipment to process solids, semisolids or liquids in forms such as powders and crystals, capsules, tablets or pills into various commercial or other forms of narcotic drugs and psychotropic substances, as well as materials used in those processes.

D. Production: The extraction of precursors from natural organisms.

E. Manufacture: Processes whereby precursors or other chemical products are obtained, including the refining and transformation of some into others, and whereby machines and materials are obtained.

F. Distribution: Transfer of a precursor or other chemical product or machines and/or materials from one person to another.

G. Importation and exportation: Entry into or exit from a customs jurisdiction of precursors, other chemical products, machines and/or materials.

H. Customs transit: Customs procedure whereby precursors, other chemical products, machines and materials are transported under customs control from one customs office to another within the same customs territory or as an inter-territorial customs operation.

I. Transshipment: Customs procedure whereby precursors, other chemical products, machines and materials are transferred under customs control from the importing means of transportation to the exporting means of transportation within the jurisdiction of a single customs office that is the port of both entry and exit.

J. User: End recipient who uses precursors, other chemical products, machines and materials.

K. Preparation: The process and result of obtaining precursors, other chemical products, narcotic drugs, psychotropic substances or substances having a similar effect.

### III. SCHEDULE OF CHEMICALS

A. Precursors and other chemical products shall be identified by the names and digital classifications under which they are listed in the Customs Cooperation Council Nomenclature (CCCN) and in the Harmonized Commodity Description and Coding System (HS). These classification systems should be used also in statistical records and documents pertaining to importation, exportation, transit and transshipment, other customs operations and to free trade zones and free ports.

D. The competent authorities may add, delete or relocate precursors and other chemical products in the pertinent tables.

These decisions will be reported to the Secretary General of the United Nations (UN), the Secretary General of the Organization of American States (OAS), and the Executive Secretary of the InterAmerican Drug Abuse Control Commission (CICAD), as well as to the Executive Secretary of the South American Accord on Narcotic Drugs and Psychotropic Substances (ASEP), as applicable.

## IV. LICENSING REQUIREMENTS AND RELATED RECORDS

A. Whosoever produces, manufactures, prepares, imports, exports, distributes, uses and/or engages in any other type of transaction involving precursors as listed in Table I or machines or materials shall be subjected to a licensing or similar system.

The competent authorities shall maintain a record of all authorizations, licenses and the like, either granted, denied or revoked.

B. Whosoever produces, manufactures, prepares, imports, exports, distributes, and/or uses massive quantities of other chemical products as listed in Table 11, and/or engages in any other type of transaction involving large quantities of these chemicals, shall register with the competent authorities so that the scope and nature of the activities they conduct may be known.

C. The records to which this article refers shall be updated periodically.

## V. RECORDS

A. The persons cited in paragraphs A and B of the preceding article shall keep records of the inventory, production, manufacture, acquisition, and distribution of those substances, machines and materials, as applicable, following the procedures outlined below.

B. 1. Producers, manufacturers and/or preparers of the substances listed in Tables I and 11, and machines and materials, shall keep a complete, accurate and updated inventory of each of these items.

2. Complete, reliable and up-to-date records shall also be kept showing the movement of such substances, machines and materials, including the following information at a minimum:

- a. Amount received from other persons and/or companies
- b. Amount produced, manufactured or prepared
- c. Amount imported
- d. Amount used to manufacture or prepare other products
- e. Amount distributed internally
- f. Amount exported
- g. Existing stocks
- h. Amount lost through accidents or pilferage.

3. Records of the transactions listed in items 2a, c, e, and f shall include the following information at a minimum:

- a. Date of the transaction
- b. Name, address, and license or registry number of each party to the transaction and those of the final consignee if not one of those parties
- c. Name, amount, and form of presentation of the precursor, other chemical product or material and/or the brand name, model, and serial number of each machine
- d. Means of transportation and identification of the transport company.

C. 1. Distributors, importers, and/or exporters of the substances listed in Tables I and II or of machines and materials shall keep complete, accurate, and up-to-date records thereof.

2. Complete, accurate, and up-to-date records of all transactions involving such substances, machines and materials must also be

kept. These records shall include the following information, at a minimum

- a. Date of the transaction
- b. Name, address, and license or registry number of each party to the transaction and those of the final consignee if not included among those parties
- c. Name, amount, and form of presentation of the precursor or other chemical product, or the brand name, model and serial number of the machines and materials
- d. Means of transportation and identification of the transport company.

#### VL. REPORTS

A. 1. Persons engaged in the production, manufacture, preparation, distribution, transportation, storage, importation or exportation of precursors or other chemical products listed in Tables I and 11, and machines and materials shall immediately report to the competent authorities any transaction or proposed transaction to which they are parties when they have reasonable grounds to suspect that such substances, machines and materials may be used in the production, manufacture, extraction or preparation of narcotic drugs, psychotropic substances or other substances with similar effects.

2. It will be considered that there are reasonable grounds particularly when the quantity of such substances, machines and materials involved in a transaction, the method of payment or the personal characteristics of the purchaser are unusual or are consistent with information provided beforehand by the competent authorities.

3. The competent authorities shall also be apprised of any losses or unusual or excessive disappearances of such substances, machines and materials under the person's control.

B. The report shall contain all available information and shall be made to the competent authorities, as soon as the circumstances that warrant suspicion are known, by the quickest means and as far in advance of the completion of the transaction as possible.

C. After the information has been confirmed, the competent authorities shall notify those authorities of the country of origin, destination or transit as soon as possible and provide them with all available information.

#### VII. IMPORT AND EXPORT REQUIREMENTS

A. In addition to the license and registry requirements, but without prejudice to any other authorizations required by the respective foreign trade system, importers and exporters of the substances listed in Table I, and machines and materials, shall obtain an import or export permit from the competent authorities.

The competent authorities may subject imports and exports of some or all of the substances listed in Table II to the same system as above.

The competent authorities shall determine which of the substances included in Table II shall be subject to notification.

In all cases, the application for license or the notification shall be submitted at least 30 days prior to the projected date of importation or exportation.

B. Import or export permits shall expire 180 and 90 days after the date of their issue, respectively and shall be valid for one shipment only. Each individual permit shall cover a single substance, machine or material.

C. The import or export application or customs declaration shall contain the following information, at a minimum:

1. The importer's or exporter's name and address, license (or registration), telephone, telex and fax numbers.

2. The name and address and telephone, telex, and fax numbers of the import or broker and forwarder, if any.

3. The name and identification number of each product listed in Tables I and II, and the description appearing on the drums, barrels or other containers or packaging.

When the imported or exported items consist of machines and materials, a description thereof, including the brand name, model, serial number, and the identification number used in the customs nomenclature.

4. Net weight of the commodity, in kilograms and fractions thereof.

5. Quantity and net weight of the drums, barrels or other containers or packaging.

6. Quantity of containers, if applicable.

7. Scheduled shipping and import or export date. Place of origin, and the points of shipment, stopover ports, place of entry into the country, and final destination.

8. Means of transportation and identification of the carrier.

9. Supplier's name, address and telephone, telex and fax numbers.

D. The competent authorities may deny import or export permits for the substances listed in Tables I and II, and for machines and materials when there is substantiated reason to believe that such items are to be used for illicit production, manufacture, extraction, or preparation of narcotic drugs, psychotropic substances, or other substances having similar effects.

#### VIII. TRANSSHIPMENT AND TRANSIT REQUIREMENTS

Customs transit and transshipment of the substances listed in Tables I and II, and machines and materials will be subject to the procedures established in the preceding article.

#### IX. OFFENSES

The following acts will be considered to constitute punishable offenses:

- A. The production, manufacture, preparation, distribution, transportation, storage, importation, exportation, or possession of—and any other type of transaction involving—precursors or other chemicals listed in Tables I and II, and machines and materials, for the purpose of cultivating, producing, manufacturing, extracting or preparing narcotic drugs, psychotropic substances, or other products having similar effects, in any manner prohibited by law.

B. The organization, management, or financing of the offenses cited in the preceding paragraph.

C. The use of any means to induce or publicly incite the commitment of any of the offenses stipulated in this article.

D. Participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counseling the commission of any of the offenses cited in this article.

**THE WORKING GROUP RECOMMENDS TO THE GOVERNMENTS OF THE MEMBER STATES OF THE ORGANIZATION OF AMERICAN STATES:**

A. That each state enact legislation or update its current legislation, to control chemical precursors and other chemical products, machines and materials in national and international transactions. Insofar as possible, such laws should be compatible with those of the other countries, taking into account these Model Regulations prepared by the Group.

Thus, each country should enact laws or such procedures that:

1. Establish severe penal, civil and/or administrative sanctions applicable to those who intentionally commit any of the offenses mentioned in Article IX of the Regulations.

2. Establish penal, civil and/or administrative sanctions to be applied to those who do not comply with the administrative procedures established.

3. Ensure that national and/or international communication systems be established for the exchange of information on transactions of precursors, other chemical products, machines and materials.

4. Adopt a flexible administrative system for the inclusion, deletion or relocation of precursors and other chemical products in the respective Tables, as well as for any relevant communications.

5. Require that records be kept of the activities contemplated in article 5 of these Regulations and that they be available to the appropriate authorities for not less than 3 years.

6. Establish the quantity of each one of the products contained in Table II which shall be exempt from the system established under these Regulations in each field of activity.

7. Ensure the application of a surveillance system of any movement of precursors, other chemical products, machines and materials at crossings and borders wherever traffic between or border trade with, neighboring countries takes place.

8. Ensure that the authorities entrusted with border control exercise a close watch over any large quantities of chemical products held there that are not used for consumption in the area or for a licit transaction.

B. That each state should designate and transmit to the other member states of the OAS the name of the competent authority that will be the authorized point of contact for cooperative efforts between member states for purposes of monitoring and controlling transactions in precursors, other chemical products, machines and materials, conducting investigations, and facilitating the timely exchange of information. Each shall respond promptly to any specific request for information made by the competent authorities and agencies of other countries.

C. That the competent authorities shall investigate alleged diversion and illicit uses of precursors or other chemical products, ma-

chines and materials at another country's request and report their findings promptly.

Finally, the Group of Experts wishes to make clear that these Model Regulations are not intended to be an exhaustive treatment of this extensive subject matter.

Issues such as safe storage, low risk disposal and re-exportation of such chemical products remain to be studied. Similarly, the laws governing certain sanctions should be considered.

TABLE 1. B. Precursors.

CCCN <sup>a</sup>	HS <sup>b</sup>	Name	Synonyms
29.02	29.03	Benzyl chloride	
29.13	29.14	1-phenyl-2-propanone	
29.13	29.14	3,4-methylenedioxphenyl 1-2 propane	
29.14	29.15	Phenylacetic acid and its salts	
29.23	19.22	O-aminobenzoic acid and its salts	Anthranilic acid and its salts
29.23	29.22	N-acetylanthranilic acid and its salts	
29.23	29.22	Phenylpropanolamine and its salts	
29.27	29.26	Benzyl cyanide	
29.27	29.26	Bromobenzyl cyanide	Bromo-benzyl- aceto-nitrile
29.35	29.33	Piperidine	
29.42	29.39	Lysergic acid	
29.42	29.39	Ephedrine, its salts, optical isomers, and salts of its optical isomers	
29.42	29.39	Ergometrine and its salts	Ergonovine and its salts
29.42	29.39	Ergotamine and its salts	Ergonovine and its salts
29.42	29.39	Pseudoephedrine, its salts, optical isomers and salts of its optical isomers DCI <sup>c</sup>	

<sup>a</sup>CCCN: The Customs Cooperation Council Nomenclature.

<sup>b</sup>HS: Harmonized Commodity Description and Coding System.

<sup>c</sup>DCI: International Nonproprietary Names of Pharmaceutical Substances (published by the World Health Organization).



TABLE 1. C. Other Chemical Products.

CCCN <sup>a</sup>	HS <sup>b</sup>	Name	Synonyms
22.08—	22.07—	Ethyl alcohol	Alcohol, ethanol
22.09	22.08		
28.06	28.06	Hydrochloric acid	Muriatic acid
			Hydrogen chloride
28.08	28.07	Sulfuric acids	Vitriol, Fuming sulfuric acid
28.15	28.13	Carbon Sulfide	Carbon disulphide
28.16	28.14	Ammonia (anhydrous or in aqueous solution)	
28.17	28.15	Potassium hydroxide	Caustic Potash
28.17	28.15	Sodium hydroxide	Caustic soda
28.38	28.33	Sodium sulfate	Disodium sulfate
28.42	28.36	Potassium carbonate	Potash
28.42	28.36	Sodium carbonate	Soda ash, washing soda
28.47	28.41	Potassium permanganate	
29.01	29.02	Benzene	
29.01	29.02	Toluene	Methylbenzene
29.02	29.03	Methylene chloride	Dichloro-methane
29.02	29.03	Chloroform	Trichloro-methane
29.02	29.03	Trichloroethylene	
29.08	29.09	Ethyl ether	Sulfuric ether, Ethyl oxide, Diethyl ether
29.13	29.14	Acetone	Propane
29.13	29.14	Methyl ethyl ketone	Butanone
29.14	29.15	Acetic acid	
29.14	29.15	Acetic anhydride	

<sup>a</sup> CCCN: The Customs Cooperation Council Nomenclature.<sup>b</sup> HS: Commodity Description and Coding System.

## **J. Model Regulations Concerning Laundering Offences Connected to Illicit Drug Trafficking and Related Offences**

(CONSIDERED AND ADOPTED BY THE GENERAL ASSEMBLY OF THE ORGANIZATION OF AMERICAN STATES AT ITS 22ND REGULAR SESSION HELD IN THE BAHAMAS, ON MAY 18TH TO 23RD, 1992)

### **EXPLANATORY NOTE**

The Inter-American Drug Abuse Control Commission (CICAD) at its eleventh regular session held in Punta del Este, Uruguay from the 10th to the 13th of March, 1992, received from the Group of Experts the Model Regulations Concerning Laundering Offences connected to Illicit Drug Trafficking and Related Offences and considered and approved the same.

Subsequently, the General Assembly of the Organization at its twentieth second regular session, held in The Bahamas from the 18th to the 23rd of May, 1992, considered and adopted this Model Regulations, approving under date of May 23, 1992 a resolution in this regard which is attached herewith.

### **MODEL REGULATIONS CONCERNING LAUNDERING OFFENSES CONNECTED TO ILLICIT DRUG TRAFFICKING AND RELATED OFFENSES**

(RESOLUTION ADOPTED BY THE EIGHTH PLENARY SESSION, HELD ON  
MAY 23, 1992)

#### **THE GENERAL ASSEMBLY,**

HAVING SEEN the observations and recommendations of the Permanent Council on the Annual Report of CICAD for 1991 (AG/dor.2832/92) relating to the Model Regulations concerning Laundering Offenses Connected to Illicit Drug Trafficking and Related Offenses and the recommendations made by the Group of Experts and approved by CICAD at its eleventh regular session (CP/CRO-337/92 rev. 1 add. 2);

#### **BEARING IN MIND:**

That the General Assembly, through resolution AG/RES. 1045 (XX-O/90) "Declaration and Program of Action of Ixtapa", emphasized the need for legislation that defines as a crime all activities related to the laundering of property and proceeds related to illicit drug trafficking and which makes it possible to identify, trace, seize and forfeit such property and proceeds;

That the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances signed in Vienna, Austria, on December 20, 1988, entered into force on December 11, 1990;

That the General Assembly, through resolution AG/RES. 1045 (XX-O/90), condemned once again illicit trafficking in all its forms and recognized that it is a crime that affects all mankind;

That the General Assembly, through resolution AG/RES. 1045 (XX-O/90), assigned top priority to the fight against drug trafficking and to renewed national and international efforts in that field in strict accordance with the principle of the Charter of the Organization, in particular national sovereignty, territorial integrity and nonintervention;

CONSIDERING:

That the principles and goals of the Inter-American Program of Action of Rio de Janeiro, the Declaration of Guatemala, "Alliance of the Americas against Drug Traffic", and the priorities established in resolution AG/RES. 935 (XVIII-O/88) are reiterated in the Declaration and Program of Action of Ixtapa: and

That the Inter-American Drug Abuse Control Commission, at its eleventh regular session, held in Punta del Este, Uruguay, in March 1992, approved the "Model Regulations concerning Laundering Offences Connected to Illicit Drug trafficking and Related Offences" prepared by a group of experts who, wherever pertinent, have reconciled the legal systems prevailing in the inter-American region.

RESOLVES:

1. To adopt the following Model Regulations concerning Laundering Offences Connected with Illicit Drug Trafficking and Related Offences.

2. To request the Permanent Council to transmit to the governments of the member states the recommendations of the Group of Experts referred to by CICAD in its annual report (CP/CRO-337/92 rev. 1 add. 2).

INTRODUCTION

Considering the provisions of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances signed in Vienna, Austria on December 20, 1988 and in force since November 11, 1990 and the mandate contained in point 6 of the Declaration and Program of Action of Ixtapa, approved at the Ministerial Meeting of Ixtapa, Mexico on April 20 1990, the General Assembly of the Organization of American States (OAS) recommends to the Member States, pursuant to the basic provisions of their respective legal systems, that they adopt the norms contained in the following Model Regulations.

These Model Regulations have been prepared reconciling, whenever pertinent, the legal systems prevailing in the Inter-American region.

ARTICLE 1

DEFINITIONS

The following definitions shall be applicable throughout the text of these Regulations except when another is expressly indicated:

1. "Convention" means the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which was signed in Vienna, Austria, on December 20, 1988, and entered into force on November 11, 1990.

2. "Forfeiture" means the permanent deprivation of property by order of a court or other competent authority.

3. "Freezing" or "seizure" means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority.

4. "Illicit traffic" means the offences set forth in the Convention and in these Regulations.

5. "Instrumentality" means something that is used in or intended for use in any manner in the commission of illicit traffic or related offences.

6. "Person" means any entity, natural or juridical, including among others, a corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, or other unincorporated organization or group, capable of acquiring rights or entering into obligations.

7. "Proceeds" means any property derived from or obtained, directly or indirectly, through the commission of illicit traffic or related offences.

8. "Property" means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets.

## ARTICLE 2

### LAUNDERING OFFENCES

1. A criminal offence is committed by any person who converts or transfers property and knows, should have known, or is intentionally ignorant that such property is proceeds from illicit traffic or related offences.

2. A criminal offence is committed by any person who acquires, possesses, or uses property and knows, should have known, or is intentionally ignorant that such property is proceeds from illicit traffic or related offences.

3. A criminal offence is committed by any person who conceals, disguises or impedes the establishment of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property and knows, should have known, or is intentionally ignorant that such property is proceeds from illicit traffic or related offences.

4. A criminal offence is committed by any person who participates in, associates with, conspires to commit, attempts to commit, aids and abets, facilitates and counsels, incites publicly or privately the commission of any of the offences established in accordance with this Article, or who assists any person participating in such an offence or offences to evade the legal consequences of his actions.

5. Knowledge, intent or purpose required as an element of any offence set forth in this Article may be inferred from objective, factual circumstances.

6. An offence defined in this Article shall be investigated, tried, judged and sentenced by a court or other competent authority as an offence distinct from other illicit traffic or related offences.

## ARTICLE 3

## JURISDICTION

The offences defined in Article 2 shall be investigated, tried, judged and sentenced by a court or other competent authority regardless of whether or not the illicit traffic or related offences occurred in another territorial jurisdiction, without prejudice to extradition when applicable in accordance with the law.

## ARTICLE 4

## PREVENTIVE MEASURES RELATING TO PROPERTY, PROCEEDS OR INSTRUMENTALITIES

In accordance with the law, the court or other competent authority shall issue, at any time, without prior notification or hearing, a freezing or seizure order, or any other preventive or provisional measure intended to preserve the availability of property, proceeds or instrumentalities connected to illicit traffic or related offences, for its eventual forfeiture.

## ARTICLE 5

## FORFEITURE OF PROPERTY, PROCEEDS OR INSTRUMENTALITIES

1. When a person is convicted of an illicit traffic or related offence, the court shall order that the property, proceeds or instrumentalities connected to such an offence be forfeited and disposed of in accordance with the law.

2. When, as a result of any act or omission of the person convicted, any of the property, proceeds or instrumentalities described in the previous paragraph cannot be forfeited, the court shall order the forfeiture of any other property of the person convicted, for an equivalent value or shall order the person convicted to pay a fine of such value.

## ARTICLE 6

## BONA FIDE THIRD PARTIES

1. The measures and sanctions referred to in Articles 4 and 5 shall apply without prejudice to the rights of bona fide third parties.

2. In accordance with the law, proper notification shall be made so that all those claiming a legitimate legal interest in property, proceeds or instrumentalities may appear in support of their claims.

3. A third party's lack of good faith may be inferred, at the discretion of the court or other competent authority, from the objective circumstances of the case.

4. In accordance with the law, the court or other competent authority shall return the property, proceeds or instrumentalities to the claimant, when it has been demonstrated to its satisfaction that:

a) the claimant has a legitimate legal interest in the property, proceeds or instrumentalities;

b) no participation, collusion or involvement with respect to illicit traffic or related offences which are the object of the proceedings can be imputed to the claimant;

c) the claimant lacked knowledge and was not intentionally ignorant of the illegal use of the property, proceeds or instrumentalities, or if he had knowledge, did not freely consent to its illegal use;

d) the claimant did not acquire any right in the property, proceeds or instrumentalities from a person proceeded against under circumstances that give rise to a reasonable inference that any right was transferred for the purpose of avoiding the eventual subsequent forfeiture of the property, proceeds or instrumentalities, and;

e) the claimant did all that could reasonably be expected to prevent the illegal use of the property, proceeds or instrumentalities.

#### ARTICLE 7

##### DISPOSITION OF FORFEITED PROPERTY, PROCEEDS OR INSTRUMENTALITIES

Whenever property, proceeds or instrumentalities that are not required to be destroyed and that are not harmful to the public are forfeited under Article 5, the court or other competent authority may, in accordance with the law:

a) retain them for official use, or transfer them to any government agency that participated directly or indirectly in their freezing, seizure, or forfeiture;

b) sell them and transfer the proceeds from such sale to any government agency that participated directly or indirectly in their freezing, seizure, or forfeiture. It may also deposit the proceeds from the sale into the Special Fund provided for in the Inter-American Program of Action of Rio de Janeiro, or into other Funds to be used by the competent authorities in their fight against illicit traffic, prevention of the unlawful use of drugs, treatment, rehabilitation or social reintegration of those affected by its use;

c) transfer the property, proceeds or instrumentalities, or the proceeds from their sale, to any private entity dedicated to the prevention of the unlawful use of drugs, treatment, rehabilitation or social reintegration of those affected by its use.

d) transfer the object of the forfeiture or the proceeds from its sale to any other country which participated directly or indirectly in the freezing, seizure, or forfeiture of the property, if such a transfer is authorized by an international agreement; or

e) transfer the object of the forfeiture or the proceeds from its sale to intergovernmental bodies specializing in the fight against illicit traffic, prevention of the unlawful use of drugs, treatment, rehabilitation or social reintegration of those affected by its use.

#### ARTICLE 8

##### PROPERTY, PROCEEDS OR INSTRUMENTALITIES OF FOREIGN OFFENCES

The court or other competent authority may order, in accordance with the law, the freezing, seizure, or forfeiture of any property,

proceeds or instrumentalities in its territorial jurisdiction when they are connected to illicit traffic or related offences committed against the laws of another country, and when that offence would have been an offence if committed within its jurisdiction.

## ARTICLE 9

### FINANCIAL INSTITUTIONS AND ACTIVITIES

1. For the purpose of these Regulations, financial institutions are, among others:

- a) a commercial bank, trust company, savings and loan association, building and loan association, savings bank, industrial bank, credit union, or other thrift institution or establishment authorized to do business under the domestic banking laws, whether these be publicly or privately owned, or mixed;
- b) a broker or dealer in securities;
- c) a currency dealer or exchanger;

2. Likewise, those persons carrying out the following activities shall be considered to be financial institutions:

- a) a systematic or substantial cashing of checks;
- b) a systematic or substantial issuance, sale or redemption of traveler's checks or money orders;
- c) a systematic or substantial transmitting of funds;
- d) any other activity subject to supervision by government bank or other financial institution authorities.

## ARTICLE 10

### IDENTIFICATION OF CLIENTS AND MAINTENANCE OF RECORDS

1. Financial institutions shall maintain accounts in the name of the accountholder. They may not keep anonymous accounts or accounts which are in fictitious or incorrect names.

2. Financial institutions shall record and verify by reliable means, the identity, representative capacity, domicile, legal capacity, occupation or business purpose of persons, as well as other identifying information on those persons, whether they be occasional or usual clients, through the use of documents such as identity documents, passports, birth certificates, driver's license, partnership contracts and incorporation papers, or any other official or private documents, when establishing or conducting business relations, especially when opening new accounts or passbooks, entering into fiduciary transactions, renting of safe deposit boxes, or performing cash transactions over an amount specified by the competent authority.

3. Financial institutions shall take reasonable measures to obtain and record information about the true identity of the person on whose behalf an account is opened or a transaction is conducted, if there are any doubts that a client is acting on his/her own behalf, particularly in the case of a juridical person who is not conducting any commercial, financial, or industrial operations in the State where it has its headquarters or domicile.

4. Financial institutions shall maintain during the period in which an operation is in effect, and for at least five years after the

conclusion of the transaction, the records of the information and documentation required in this Article.

5. Financial institutions shall maintain records on customer identification, account files, and business correspondence as determined by the competent authority, for at least five years after the account has been closed.

6. Financial institutions shall also maintain records to enable the reconstruction of financial transactions in excess of an amount specified by the competent authority, for at least five years after the conclusion of the transaction.

## ARTICLE 11

### AVAILABILITY OF RECORDS

1. Financial institutions shall comply promptly, and within the period of time to be established, with information requests from the competent authorities concerning the records of information and documentation referred to in the previous Article, for use in criminal, civil, or administrative investigations, prosecutions, or proceedings, as the case may be, regarding illicit traffic or related offences, or violations of the provisions of these Regulations.

Financial institutions shall not notify any person, other than a court, competent authority or other person authorized by law, that information has been requested by or furnished to a court or other competent authority.

2. The competent authorities shall share with other national competent authorities said information, in accordance with the law, and when it concerns illicit traffic or related offences, or violations of the provisions of these Regulations.

The competent authorities shall treat as confidential the information referred to in this Article, except insofar as such information is necessary for use in criminal, civil, or administrative investigations, prosecutions, or proceedings, as the case may be, regarding illicit traffic or related offences, or violations of the provisions of these Regulations.

3. The competent authorities may share such information with the competent authorities of other States, in accordance with the law.

4. The legal provisions referring to bank secrecy or confidentiality shall not be an impediment to compliance with this Article, when the information is requested by or shared with the court or other competent authority.

## ARTICLE 12

### RECORDING AND REPORTING OF CASH TRANSACTIONS

1. Each financial institution shall record, on a form designed by the competent authority, each cash transaction involving a domestic or foreign currency transaction exceeding an amount specified by the competent authority.

2. The form referred to in the previous paragraph shall include, at a minimum, the following data for each transaction:

- a) the identity, signature, and address of the person who conducts physically the transaction;



b) the identity and address of the person in whose name the transaction is conducted;

c) the identity and address of the beneficiary or the person on whose behalf the transaction is conducted, as applicable;

d) the identity of the accounts affected by the transaction, if any;

e) the type of transaction involved, such as deposit, withdrawal, exchange of currency, check cashing, purchase of certified or cashier's checks or money orders, or other payment or transfer by, through, or to such financial institution;

f) the identity of the financial institution where the transaction occurred; and

g) the date, time, and amount of the transaction.

3. This record shall be recorded, accurately and completely, by the financial institution on the day the transaction has occurred and shall be maintained for a period of five years from the date of the transaction.

4. Multiple cash transactions in domestic or foreign currency which, altogether, exceed a specified amount, shall be treated as a single transaction if they are undertaken by or on behalf of any one person during any one day or any other period established by the competent authority. In such a case, when a financial institution, its employees, officers or agents have knowledge of these transactions, they shall record these transactions on the form determined by the competent authority.

5. For transactions conducted on their own account between the financial institutions defined in Article 9 paragraph 1 (a) that are subject to supervision by the domestic banking and financial authorities, recording on the form referred to in this Article shall not be required.

6. These records shall be available to the court or other competent authority, in accordance with the law, for use in criminal, civil or administrative investigations, prosecutions or proceedings, as the case may be, connected to illicit traffic or related offences or violations of the provisions of these Regulations.

7. When it deems advisable, the competent authority may establish that financial institutions file with it, within such time as the competent authorities may establish, the form referred to in paragraphs 1, 2 and 3 of this Article. This form shall serve as evidence or as an official report, and shall be used for the same purposes as referred to in paragraph 6 of this Article.

8. Financial institutions shall not notify any person, other than a court, competent authority or other person authorized by law, that information has been requested by or furnished to a court or other competent authority.

9. The legal provision referring to bank secrecy or confidentiality shall not be an impediment to compliance with this Article, when the information is requested by or shared with the court or other competent authority.

## ARTICLE 13

## REPORTING OF SUSPICIOUS FINANCIAL TRANSACTIONS

1. Financial institutions shall pay special attention to all complex, unusual or large transactions, whether completed or not, and to all unusual patterns of transactions, and to insignificant but periodic transactions, which have no apparent economic or lawful purpose.

2. Upon suspicion that the transactions described in paragraph 1 of this Article could constitute or be related to illicit activities, financial institutions shall promptly report the suspicious transactions to the competent authorities.

3. Financial institutions shall not notify any person, other than a court, competent authority or other person authorized by law, that information has been requested by or furnished to a court or other competent authority.

4. When the report referred to in paragraph 2 of this Article is made in good faith, the financial institutions and their employees, staff, directors, owners or other representatives as authorized by law, shall be exempted from criminal, civil and/or administrative liability, as the case may be, for complying with this Article or for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, regardless of the result of the communication.

## ARTICLE 14

## LIABILITY OF A FINANCIAL INSTITUTION

1. Financial institutions, or their employees, staff, directors, owners or other authorized representatives who, acting as such, participate in illicit traffic or related offences, shall be subject to more severe sanctions.

2. Financial institutions shall be liable, in accordance with the law, for the actions of their employees, staff, directors, owners or other authorized representatives who, acting as such, participate in the commission of any offence described in Article 2 of these Regulations. Such liability may include, among other measures, the imposition of a fine, temporary suspension of business or charter, or suspension or revocation of the license to operate as a financial institution.

3. A criminal offence is committed by a financial institution or its employees, staff, director, owners or other authorized representatives who, acting as such, wilfully fail to comply with the obligations in Articles 10 through 13 of these Regulations, or who wilfully make a false or falsified record or report as referred to in the above mentioned Articles.

4. Without prejudice to criminal and/or civil liabilities for offences connected to illicit traffic or related offences, financial institutions that fail to comply with the obligations described in Articles 10 through 13 and 15 of these Regulations, shall be subject to other sanctions, such as imposition of a fine, temporary suspension of business or charter, or suspension or revocation of the license to operate as a financial institution.

## ARTICLE 15

## MANDATORY COMPLIANCE PROGRAMS IN FINANCIAL INSTITUTIONS

1. Financial institutions, pursuant to the regulation and supervision referred to in Article 17 of these Regulations shall adopt, develop and implement internal programs, policies, procedures and controls to guard and detect against the offences described in Article 2 of these Regulations. Such programs shall include, at a minimum:

- a) the establishment of procedures to ensure high standards of integrity of their employees and a system to evaluate the personal, employment and financial history of these employees;
- b) on-going employee training programs, such as "know-your-client" programs, and instructing employees in the responsibilities indicated in Articles 10 through 13 of these Regulations;
- c) an independent audit function to check compliance with the programs.

2. Financial institutions shall also designate compliance officers at management level in charge of the application of the internal programs and procedures, including proper maintenance of records and reporting of suspicious transactions. These officers shall function as liaison with the competent authorities.

## ARTICLE 16

## PROVISIONS FOR OTHERS RESPONSIBLE

When it deems advisable, the competent authority shall extend the application of the relevant provisions of these Regulations relating to financial institutions, to any type of economic activities when a transaction is carried out in cash and in excess of an amount specified by the competent authority, such as:

- a) the sale or transfer of real estate, weapons, metals, art, archaeological objects, jewelry, automobiles, boats, planes, or other consumer durables, collectibles, or travel or entertainment-related services;
- b) casino or other gambling operations; or
- c) professional services.

## ARTICLE 17

## OBLIGATIONS OF THE COMPETENT AUTHORITIES

1. In accordance with the law, the competent authorities, and especially those with regulatory and supervisory power over financial institutions shall, among other obligations:

- a) grant, deny, suspend or cancel licenses or permits for the operation of financial institutions;
- b) adopt the necessary measures to prevent and/or avoid any person who is unsuitable from controlling, or participating, directly or indirectly, in the directorship, management or operation of a financial institution;
- c) examine and supervise financial institutions, and regulate and oversee effective compliance with the recordkeeping and reporting obligations specified in these Regulations;

d) verify, through regular examinations, that the financial institutions have and apply the mandatory compliance programs referred to in Article 15 of these Regulations;

e) provide other competent authorities with the information obtained from financial institutions in conformity with these Regulations, including that information which results from an examination of any financial institution:

f) prescribe instructions or recommendations to assist financial institutions in detecting suspicious patterns of behaviour in their clients. These guidelines shall be developed taking into account modern and secure techniques of money management and will serve as an educational tool for financial institutions' personnel;

g) cooperate with other competent authorities and lend technical assistance in investigations, prosecutions or proceedings relating to the offences described in Article 2 of these Regulations, and other illicit traffic and related offences.

2. The competent authorities, and especially those with regulatory and supervisory power over financial institutions shall, in accordance with the law, report promptly to other competent authorities regarding any information received from financial institutions concerning suspicious transactions or activities that could be related to the offences described in Article 2 of these Regulations and other illicit traffic or related offences.

3. The competent authorities, and especially those with regulatory and supervisory power over financial institutions shall, in accordance with the law, cooperate closely with the competent authorities from other States in investigations, proceedings or prosecutions relating to the offences described in Article 2 of these Regulations, other illicit traffic or related offences, and to violations of the laws and administrative regulations dealing with financial institutions.

## ARTICLE 18

### INTERNATIONAL COOPERATION

1. The court or other competent authority shall cooperate with the court or other competent authority of another State, taking the appropriate measures to provide assistance in matters concerning illicit traffic or related offences, in accordance with these Regulations, and within the limits of their respective legal systems.

2. The court or other competent authority may receive a request from the court or other competent authority of another State to identify, trace, freeze, seize or forfeit the property, proceeds, or instrumentalities connected to illicit traffic or related offences, and may take appropriate actions, including those contained in Articles 4 and 5 of these Regulations.

3. A final judicial order or judgment that provides for the forfeiture of property, proceeds or instrumentalities connected to illicit traffic or related offences, issued by a court or other competent authority of another State, may be recognized as evidence that the property, proceeds or instrumentalities referred to by such order or judgement may be subject to forfeiture in accordance with the law.

4. The court or other competent authority may receive and take appropriate measures with respect to a request from a court or other competent authority from another State, for assistance related to a civil, criminal, or administrative investigation, prosecution or proceeding, as the case may be, involving illicit traffic or a related offence, or violations of any provision established in these Regulations. Such assistance may include providing original or certified copies of relevant documents and records, including those of financial institutions and government agencies; obtaining testimony in the requested State; facilitating the voluntary presence or availability in the requesting State of persons, including those in custody, to give testimony; locating or identifying persons; servicing of documents; examining objects and places; executing searches and seizures; providing information and evidentiary items; and provisional measures.

5. The legal provisions referring to bank secrecy or confidentiality shall not be an impediment to compliance with this Article, when the information is requested by or shared with the court or other competent authority.

6. Assistance provided pursuant to this Article shall be undertaken in accordance with the law.

#### ARTICLE 19

##### BANK SECRECY OR CONFIDENTIALITY

The legal provisions referring to bank secrecy or confidentiality shall not be an impediment to compliance with these Regulations, when the information is requested by or shared with the court or other competent authority, in accordance with the law.

##### RECOMMENDATIONS OF THE GROUP OF EXPERTS TO CICAD

The Group of Experts requests that CICAD consider and adopt the Model Regulations and present them to the next General Assembly of the OAS for its possible adoption by the Member States.

To facilitate the adoption of the Model Regulations, the Group of Experts recommends that CICAD:

1. Periodically consider the effectiveness of the Model Regulations, to assess the extent to which recommended norms have been adopted and implemented by the Member States, facilitate the widest dissemination of information to the Member States regarding the Model Regulations, and recommend those additional activities needed to expedite their adoption and application.

2. Provide the necessary technical collaboration to the Member States which request it, for the adoption and implementation of the Model Regulations and assist in obtaining the financial resources needed for this purpose.

3. Convene periodical seminars and workshops to provide the competent authorities, the judiciary and law enforcement agencies of the Member States with a forum to exchange experiences in the fight against laundering offences and related offences, diffuse information in this regard, and discuss new trends and techniques.

4. Establish a close working relationship with the United Nations and other international, regional and governmental bodies and private sector organizations.

On the basis of the Model Regulations the Group of Experts recommends that CICAD urge the Member States of the OAS to consider:

1. Designating the domestic competent authorities with regulatory and supervisory power over the financial institutions included in the Model Regulations and transmitting their names to the General Secretariat of the OAS and to the Member States.

2. Designating an authority or authorities, as may be necessary, competent to receive or process all the requests for international cooperation referred to in the Model Regulations and transmitting their names to the General Secretariat of the OAS and to the Member States.

3. Responding promptly to any specific request for cooperation by the competent authorities of other Member States made pursuant to the Model Regulations and advising, as soon as possible, on any impediment or obstacle to such requests.

4. Ensuring the establishment of national and/or international communications for the sharing of information on matters related to laundering offences, financial institutions and transactions, illicit traffic and related offences, and the identification, freezing, seizure or forfeiture of property, proceeds or instrumentalities.

Furthermore, the Group of Experts recommends that CICAD suggest to the Member States of the OAS that they consider the possibility of:

1. Applying the relevant provisions of the Regulations to laundering connected with other serious offences.

2. Establishing more severe penal, civil and/or administrative sanctions for the offences mentioned in Article 2, when the person involved holds a public office and that offence is connected with the office in question.

3. Studying and examining the feasibility and convenience of requiring the recording and/or reporting of the transportation, from one Member State to another, of large sums of cash in excess of a specified amount.

4. Studying and examining the feasibility and convenience of forwarding to other Member States information that might be useful in the investigation of the offences referred to in the Model Regulations, without the need for a prior request.

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