

Public Law 101-623
101st Congress

An Act

Nov. 21, 1990
[H.R. 5567]

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,

International
Narcotics
Control Act
of 1990.
Law
enforcement.
22 USC 2151
note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “International Narcotics Control Act of 1990”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Economic assistance and administration of justice programs for Andean countries.
- Sec. 3. Military and law enforcement assistance for Andean countries.
- Sec. 4. General provisions relating to assistance for Andean countries.
- Sec. 5. International narcotics control assistance.
- Sec. 6. Assistance for agricultural and industrial alternatives to narcotics production.
- Sec. 7. Exceptions to requirement that aircraft provided to foreign countries for narcotics control purposes be leased rather than sold.
- Sec. 8. Number of members of United States Armed Forces in Andean countries.
- Sec. 9. Nonapplicability of certification procedures to certain major drug-transit countries.
- Sec. 10. Authority to transfer military assistance funds to economic programs.
- Sec. 11. Extradition of United States citizens.
- Sec. 12. Congressional review of narcotics-related assistance for Afghanistan.
- Sec. 13. Training of foreign pilots.
- Sec. 14. Review of riverine program.
- Sec. 15. Uses of excess defense articles transferred to certain major illicit drug producing countries.
- Sec. 16. Export-Import Bank financing for sales of defense articles and services.
- Sec. 17. Debt-for-drugs exchanges.

SEC. 2. ECONOMIC ASSISTANCE AND ADMINISTRATION OF JUSTICE PROGRAMS FOR ANDEAN COUNTRIES.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated \$300,000,000 for fiscal year 1991 for assistance for Andean countries under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) or under chapter 1 of part I of that Act (22 U.S.C. 2151 and following; relating to development assistance).

(b) **ADMINISTRATION OF JUSTICE PROGRAMS.**—

(1) **ADDITIONAL ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.**—Of the funds authorized to be appropriated by subsection (a) that are appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, up to \$16,000,000 should be used to provide assistance for Bolivia, Colombia, and Peru—

(A) pursuant to section 534 of that Act (22 U.S.C. 2346c; relating to the administration of justice program), in addi-

tion to funds otherwise used for those countries under that section for fiscal year 1991; and

(B) pursuant to paragraphs (2) and (3) of this subsection.

(2) **PROTECTION AGAINST NARCO-TERRORIST ATTACKS.**—Funds used in accordance with paragraph (1) may be used to provide to Bolivia, Colombia, and Peru, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies), such assistance as the government of that country may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(3) **ASSISTANCE FOR COLOMBIA'S OFFICE OF SPECIAL INVESTIGATIONS AND SPECIAL PROSECUTOR FOR HUMAN RIGHTS.**—It is the sense of the Congress that up to \$2,000,000 of the funds used in accordance with paragraph (1) should be used for assistance for Colombia to provide training, technical assistance, and equipment for the Office of Special Investigations and the Special Prosecutor for Human Rights, both of which are within the Office of the Attorney General of the Government of Colombia.

(4) **ADDITIONALITY OF ASSISTANCE.**—Funds may be used in accordance with paragraph (1) of this subsection without regard to the dollar limitation contained in section 534(c) of the Foreign Assistance Act of 1961.

(5) **PERIOD OF AVAILABILITY.**—Funds allocated for use in accordance with paragraph (1) of this subsection shall remain available until expended notwithstanding any other provision of law.

(6) **EXTENSION OF AUTHORITY FOR AOJ PROGRAM.**—Section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) is amended—

(A) in the second sentence by striking out “\$7,000,000 may be made available in fiscal year 1990” and inserting in lieu thereof “\$10,000,000 may be made available in fiscal year 1991”; and

(B) in the third sentence by striking out “1990” and inserting in lieu thereof “1991”.

SEC. 3. MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR ANDEAN COUNTRIES.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated \$118,000,000 for fiscal year 1991 for assistance for Andean countries under the “FOREIGN MILITARY FINANCING PROGRAM” account under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(b) **PURPOSES OF ASSISTANCE.**—Assistance under subsection (a) shall be designed to—

(1) enhance the ability of the government of the recipient country to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with that government by offering concrete assistance in this area of great mutual concern;

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking; and

(4) assist the armed forces of the Andean countries in their support roles for those countries' law enforcement agencies,

Human rights.

which are charged with the main responsibility for the control of illicit narcotics production and trafficking.

(c) **CONDITIONS OF ELIGIBILITY.**—Assistance may be provided for an Andean country under subsection (a) only—

(1) so long as that country has a democratic government; and

(2) the government of that country, including the armed forces and law enforcement agencies, does 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))).

(d) **LAW ENFORCEMENT TRAINING AND EQUIPMENT.**—Subject to subsection (e), funds made available to carry out subsection (a) may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies)—

(1) to provide to law enforcement units, that are organized for the specific purpose of narcotics enforcement, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts;

(2) 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; and

(3) for the procurement of defense articles or commodities (as defined in section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c))) for use in narcotics control, eradication, and interdiction efforts by law enforcement units that are organized for the specific purpose of narcotics enforcement.

(e) **MILITARY AND LAW ENFORCEMENT ASSISTANCE.**—

(1) **LIMITATIONS ON AMOUNTS.**—The aggregate amount of military and law enforcement assistance provided for Bolivia, Colombia, and Peru for fiscal year 1991 may not exceed \$250,000,000. Of that amount—

(A) not more than \$175,000,000 may be assistance for the armed forces; and

(B) not more than \$175,000,000 may be assistance for law enforcement units or agencies.

(2) **DEFINITION OF MILITARY AND LAW ENFORCEMENT ASSISTANCE.**—For purposes of paragraph (1), the term “amount of military and law enforcement assistance” means the sum of—

(A) the amount obligated for assistance under the “FOREIGN MILITARY FINANCING PROGRAM” account under section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(B) the amount obligated for assistance 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);

(C) the amount obligated for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international military education and training);

(D) the value of defense articles, defense services, and military education and training made available under the special drawdown authority of paragraphs (1) and (2) of

section 506(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)); and

(E) the value of excess defense articles made available under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k).

(f) LIMITATIONS ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED TO BOLIVIA, COLOMBIA, AND PERU.—

(1) **ESTABLISHMENT OF LIMIT.**—The aggregate acquisition cost to the United States of excess defense articles ordered by the President in fiscal year 1991 for delivery to Bolivia, Colombia, and Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) may not exceed \$60,000,000.

(2) **WAIVER OF EXISTING GRANT EDA LIMITATION.**—The dollar limitation in section 517(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(e)) shall not apply with respect to Bolivia, Colombia, and Peru in fiscal year 1991.

(3) **WORLDWIDE LIMITATION ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED.**—Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)) shall not apply to excess defense articles ordered for transfer to Bolivia, Colombia, or Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) in fiscal year 1991.

(g) ASSISTANCE FOR LEASING OF AIRCRAFT.—

(1) **USE OF FUNDS.**—For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c), funds made available under subsection (a) may be used to finance the leasing of aircraft under chapter 6 of the Arms Export Control Act.

(2) **COST OF LEASES.**—Section 61(a)(3) of the Arms Export Control 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 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).

(3) **REIMBURSEMENT OF SDAF.**—To the extent that aircraft so leased were acquired under chapter 5 of the Arms Export Control Act, funds used pursuant to this subsection 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.

SEC. 4. GENERAL PROVISIONS RELATING TO ASSISTANCE FOR ANDEAN COUNTRIES.

(a) **PRESIDENTIAL DETERMINATION REQUIRED.**—Assistance may be provided for an Andean country pursuant to the authorizations of appropriations provided in section 2(a) and section 3(a), and excess defense articles may be transferred to Bolivia, Colombia, or Peru in fiscal year 1991 pursuant to section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k), only if the President determines that—

(1) that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a 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;

Human rights.

(2) the armed forces and law enforcement agencies of that country are not engaged in a consistent pattern of gross violations of internationally recognized human rights, and the government of that country has made significant progress in protecting internationally recognized human rights, particularly in—

(A) ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty, or security of the person, are not practiced; and

(B) permitting an unimpeded investigation of alleged violations of internationally recognized human rights, including providing access to places of detention, by appropriate international organizations (including nongovernmental organizations such as the International Committee of the Red Cross) or groups acting under the authority of the United Nations or the Organization of American States; and

(3) the government of that country has effective control over police and military operations related to counternarcotics and counterinsurgency activities.

President.

(b) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to section 2(a) or section 3(a), the President shall transmit to the congressional committees specified in section 634A(a) 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) in the case of assistance provided pursuant to section 3(a), the law enforcement or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will further—

(A) the objectives specified in subsection (a) of this section, and

(B) in the case of assistance under section 3(a), the purposes specified in section 3(b).

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance authorized by section 2(a) and section 3(a) 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).

(d) CONDITIONAL WAIVER OF BROOKE-ALEXANDER AMENDMENT.—For fiscal year 1991, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, shall not apply with respect to narcotics-related assistance for an Andean country, provided the President has made the determination described in subsection (a) of this section.

(e) AUTHORITY TO WAIVER REQUIREMENT TO WITHHOLD 50 PERCENT OF ASSISTANCE PENDING CERTIFICATION.—Section 481(h)(1)(A) of the

Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(A)) shall not apply with respect to Bolivia, Colombia, and Peru for fiscal year 1991 if the President—

(1) determines that its application would be contrary to the national interest; and

(2) transmits written notification of that determination to 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 reprogrammings under that section.

SEC. 5. INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

There are authorized to be appropriated \$150,000,000 for fiscal year 1991 for assistance 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).

Appropriation authorization.

SEC. 6. ASSISTANCE FOR AGRICULTURAL AND INDUSTRIAL ALTERNATIVES TO NARCOTICS PRODUCTION.

22 USC 2151x-1.

(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. 7. EXCEPTIONS TO REQUIREMENT THAT AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES BE LEASED RATHER THAN SOLD.

Section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c) is amended by adding at the end the following: "The requirement of this section does not apply with respect to aircraft made available to a foreign country under section 2(b)(6)(B) of the Export-Import Bank Act of 1945 or 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."

SEC. 8. NUMBER OF MEMBERS OF UNITED STATES ARMED FORCES IN ANDEAN COUNTRIES.

22 USC 2291 note.

MONTHLY REPORTS.—Within 15 days after the end of each month, the President shall submit to the Congress a report listing the number of members of the United States Armed Forces who were assigned or detailed to, or otherwise performed functions in, each Andean country at any time during that month.

President.

SEC. 9. NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 8 of the International Narcotics Control Act of 1989 is amended by inserting "or fiscal year 1991" after "fiscal year 1990".

103 Stat. 1961.

SEC. 10. AUTHORITY TO TRANSFER MILITARY ASSISTANCE FUNDS TO ECONOMIC PROGRAMS.

(a) **APPLICABILITY OF TRANSFER AUTHORITY TO FOREIGN MILITARY FINANCING PROGRAM FUNDS.**—Section 610(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2360(a)) is amended—

- (1) by inserting “or for section 23 of the Arms Export Control Act” after “part I”; and
 (2) by striking out “other”.

22 USC 2360
note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) apply with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

SEC. 11. EXTRADITION OF UNITED STATES CITIZENS.

(a) **IN GENERAL.**—Chapter 209 of title 18, United States Code, is amended by adding at the end the following new section:

“§ 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.”.

(b) **SECTION ANALYSIS.**—The section analysis for chapter 209 of title 18, United States Code, is amended by adding at the end the following:

“3196. Extradition of United States citizens.”.

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

President.

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.

President.

22 USC 2291h
note.

SEC. 13. 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 pilots, 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. 14. REVIEW OF RIVERINE PROGRAM.

Reports.

Funds made available to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act may not be used for the procurement of surface water craft for counternarcotics programs in the Andean countries until the Secretary of State and the Secretary of Defense have jointly assessed and audited, and have submitted a report to Congress on—

- (1) the specific goals and objectives of such programs;
- (2) how such craft will further the attainment of those goals and objectives;
- (3) the cost and utility of craft to be provided; and
- (4) how such craft will be sustained through maintenance and training.

SEC. 15. USES OF EXCESS DEFENSE ARTICLES TRANSFERRED TO CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

Section 517(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(c)) is amended by striking out “only” the second place it appears and inserting in lieu thereof “primarily”.

SEC. 16. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES.

Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking out “1990” and inserting in lieu thereof “1992”.

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.

Approved November 21, 1990.

LEGISLATIVE HISTORY—H.R. 5567:

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 22, considered and passed House.

Oct. 26, considered and passed Senate, amended.

Oct. 27, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

Nov. 21, Presidential statement.