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1ST SESSION

# H. R. 3164

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 3, 1999

Received

NOVEMBER 19, 1999

Read twice and referred to the Committee on Foreign Relations

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## AN ACT

To provide for the imposition of economic sanctions on certain foreign persons engaging in, or otherwise involved in, international narcotics trafficking.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Foreign Narcotics  
3 Kingpin Designation Act”.

4 **SEC. 2. FINDINGS AND POLICY.**

5 (a) FINDINGS.—Congress makes the following find-  
6 ings:

7 (1) Presidential Decision Directive 42, issued  
8 on October 21, 1995, ordered agencies of the execu-  
9 tive branch of the United States Government to,  
10 inter alia, increase the priority and resources de-  
11 voted to the direct and immediate threat inter-  
12 national crime presents to national security, work  
13 more closely with other governments to develop a  
14 global response to this threat, and use aggressively  
15 and creatively all legal means available to combat  
16 international crime.

17 (2) Executive Order No. 12978 of October 21,  
18 1995, provides for the use of the authorities in the  
19 International Emergency Economic Powers Act  
20 (IEEPA) (50 U.S.C. 1701 et seq.) to target and  
21 apply sanctions to 4 international narcotics traf-  
22 fickers and their organizations that operate from Co-  
23 lombia.

24 (3) IEEPA was successfully applied to inter-  
25 national narcotics traffickers in Colombia and based

1 on that successful case study, Congress believes  
2 similar authorities should be applied worldwide.

3 (4) There is a national emergency resulting  
4 from the activities of international narcotics traf-  
5 fickers and their organizations that threatens the  
6 national security, foreign policy, and economy of the  
7 United States.

8 (b) POLICY.—It shall be the policy of the United  
9 States to apply economic and other financial sanctions to  
10 significant foreign narcotics traffickers and their organiza-  
11 tions worldwide to protect the national security, foreign  
12 policy, and economy of the United States from the threat  
13 described in subsection (a)(4).

14 **SEC. 3. PURPOSE.**

15 The purpose of this Act is to provide authority for  
16 the identification of, and application of sanctions on a  
17 worldwide basis to, significant foreign narcotics traf-  
18 fickers, their organizations, and the foreign persons who  
19 provide support to those significant foreign narcotics traf-  
20 fickers and their organizations, whose activities threaten  
21 the national security, foreign policy, and economy of the  
22 United States.

1 **SEC. 4. PUBLIC IDENTIFICATION OF SIGNIFICANT FOREIGN**  
2 **NARCOTICS TRAFFICKERS AND REQUIRED**  
3 **REPORTS.**

4 (a) PROVISION OF INFORMATION TO THE PRESI-  
5 DENT.—The Secretary of the Treasury, the Attorney Gen-  
6 eral, the Secretary of Defense, the Secretary of State, and  
7 the Director of Central Intelligence shall consult among  
8 themselves and provide the appropriate and necessary in-  
9 formation to enable the President to submit the report  
10 under subsection (b). This information shall also be pro-  
11 vided to the Director of the Office of National Drug Con-  
12 trol Policy.

13 (b) PUBLIC IDENTIFICATION AND SANCTIONING OF  
14 SIGNIFICANT FOREIGN NARCOTICS TRAFFICKERS.—Not  
15 later than June 1, 2000, and not later than June 1 of  
16 each year thereafter, the President shall submit a report  
17 to the Permanent Select Committee on Intelligence, and  
18 the Committees on the Judiciary, International Relations,  
19 Armed Services, and Ways and Means of the House of  
20 Representatives; and to the Select Committee on Intel-  
21 ligence, and the Committees on the Judiciary, Foreign Re-  
22 lations, Armed Services, and Finance of the Senate—

23 (1) identifying publicly the foreign persons that  
24 the President determines are appropriate for sanc-  
25 tions pursuant to this Act; and

1           (2) detailing publicly the President's intent to  
2           impose sanctions upon these significant foreign nar-  
3           cotics traffickers pursuant to this Act.

4 The report required in this subsection shall not include  
5 information on persons upon which United States sanc-  
6 tions imposed under this Act, or otherwise on account of  
7 narcotics trafficking, are already in effect.

8           (c) UNCLASSIFIED REPORT REQUIRED.—The report  
9 required by subsection (b) shall be submitted in unclassi-  
10 fied form and made available to the public.

11          (d) CLASSIFIED REPORT.—(1) Not later than July  
12 1, 2000, and not later than July 1 of each year thereafter,  
13 the President shall provide the Permanent Select Com-  
14 mittee on Intelligence of the House of Representatives and  
15 the Select Committee on Intelligence of the Senate with  
16 a report in classified form describing in detail the status  
17 of the sanctions imposed under this Act, including the per-  
18 sonnel and resources directed towards the imposition of  
19 such sanctions during the preceding fiscal year, and pro-  
20 viding background information with respect to newly-iden-  
21 tified significant foreign narcotics traffickers and their ac-  
22 tivities.

23          (2) Such classified report shall describe actions the  
24 President intends to undertake or has undertaken with re-  
25 spect to such significant foreign narcotics traffickers.

1       (3) The report required under this subsection is in  
2 addition to the President's obligations to keep the intel-  
3 ligence committees of Congress fully and currently in-  
4 formed pursuant to the provisions of the National Security  
5 Act of 1947.

6       (e) EXCLUSION OF CERTAIN INFORMATION.—

7           (1) INTELLIGENCE.—Notwithstanding any  
8 other provision of this section, the reports described  
9 in subsections (b) and (d) shall not disclose the iden-  
10 tity of any person, if the Director of Central Intel-  
11 ligence determines that such disclosure could com-  
12 promise an intelligence operation, activity, source, or  
13 method of the United States.

14           (2) LAW ENFORCEMENT.—Notwithstanding any  
15 other provision of this section, the reports described  
16 in subsections (b) and (d) shall not disclose the  
17 name of any person if the Attorney General, in co-  
18 ordination as appropriate with the Director of the  
19 Federal Bureau of Investigation, the Administrator  
20 of the Drug Enforcement Administration, and the  
21 Secretary of the Treasury, determines that such dis-  
22 closure could reasonably be expected to—

23           (A) compromise the identity of a confidential  
24 source, including a State, local, or foreign agency or

1 authority or any private institution that furnished  
2 information on a confidential basis;

3 (B) jeopardize the integrity or success of an on-  
4 going criminal investigation or prosecution;

5 (C) endanger the life or physical safety of any  
6 person; or

7 (D) cause substantial harm to physical prop-  
8 erty.

9 (f) NOTIFICATION REQUIRED.—(1) Whenever either  
10 the Director of Central Intelligence or the Attorney Gen-  
11 eral makes a determination under subsection (e), the Di-  
12 rector of Central Intelligence or the Attorney General shall  
13 notify the Permanent Select Committee on Intelligence of  
14 the House of Representatives and the Select Committee  
15 on Intelligence of the Senate, and explain the reasons for  
16 such determination.

17 (2) The notification required under this subsection  
18 shall be submitted to the Permanent Select Committee on  
19 Intelligence of the House of Representatives and the Se-  
20 lect Committee on Intelligence of the Senate not later than  
21 July 1, 2000, and on an annual basis thereafter.

22 (g) DETERMINATIONS NOT TO APPLY SANCTIONS.—  
23 (1) The President may waive the application to a signifi-  
24 cant foreign narcotics trafficker of any sanction author-  
25 ized by this title if the President determines that the appli-

1 cation of sanctions under this Act would significantly  
2 harm the national security of the United States.

3 (2) When the President determines not to apply sanc-  
4 tions that are authorized by this Act to any significant  
5 foreign narcotics trafficker, the President shall notify the  
6 Permanent Select Committee on Intelligence, and the  
7 Committees on the Judiciary, International Relations,  
8 Armed Services, and Ways and Means of the House of  
9 Representatives, and the Select Committee on Intelligence,  
10 and the Committees on the Judiciary, Foreign Relations,  
11 Armed Services, and Finance of the Senate not later than  
12 21 days after making such determination.

13 (h) CHANGES IN DETERMINATIONS TO IMPOSE  
14 SANCTIONS.—

15 (1) ADDITIONAL DETERMINATIONS.—(A) If at  
16 any time after the report required under subsection  
17 (b) the President finds that a foreign person is a  
18 significant foreign narcotics trafficker and such for-  
19 eign person has not been publicly identified in a re-  
20 port required under subsection (b), the President  
21 shall submit an additional public report containing  
22 the information described in subsection (b) with re-  
23 spect to such foreign person to the Permanent Select  
24 Committee on Intelligence, and the Committees on  
25 the Judiciary, International Relations, Armed Serv-



1 ices, and Ways and Means of the House of Rep-  
2 resentatives, and the Select Committee on Intel-  
3 ligence, and the Committees on the Judiciary, For-  
4 eign Relations, Armed Services, and Finance of the  
5 Senate.

6 (B) The President may apply sanctions author-  
7 ized under this Act to the significant foreign nar-  
8 cotics trafficker identified in the report submitted  
9 under subparagraph (A) as if the trafficker were  
10 originally included in the report submitted pursuant  
11 to subsection (b) of this section.

12 (C) The President shall notify the Secretary of  
13 the Treasury of any determination made under this  
14 paragraph.

15 (2) REVOCATION OF DETERMINATION.—(A)  
16 Whenever the President finds that a foreign person  
17 that has been publicly identified as a significant for-  
18 eign narcotics trafficker in the report required under  
19 subsection (b) or this subsection no longer engages  
20 in those activities for which sanctions under this Act  
21 may be applied, the President shall issue public no-  
22 tice of such a finding.

23 (B) Not later than the date of the public notice  
24 issued pursuant to subparagraph (A), the President  
25 shall notify, in writing and in classified or unclassi-

1       fied form, the Permanent Select Committee on Intel-  
2       ligence, and the Committees on the Judiciary, Inter-  
3       national Relations, Armed Services, and Ways and  
4       Means of the House of Representatives, and the Se-  
5       lect Committee on Intelligence, and the Committees  
6       on the Judiciary, Foreign Relations, Armed Services,  
7       and Finance of the Senate of actions taken under  
8       this paragraph and a description of the basis for  
9       such actions.

10 **SEC. 5. BLOCKING ASSETS AND PROHIBITING TRANS-**  
11 **ACTIONS.**

12       (a) **APPLICABILITY OF SANCTIONS.**—A significant  
13 foreign narcotics trafficker publicly identified in the report  
14 required under subsection (b) or (h)(1) of section 4 and  
15 foreign persons designated by the Secretary of the Treas-  
16 ury pursuant to subsection (b) of this section shall be sub-  
17 ject to any and all sanctions as authorized by this Act.  
18 The application of sanctions on any foreign person pursu-  
19 ant to subsection (b) or (h)(1) of section 4 or subsection  
20 (b) of this section shall remain in effect until revoked pur-  
21 suant to section 4(h)(2) or subsection (e)(1)(A) of this  
22 section or waived pursuant to section 4(g)(1).

23       (b) **BLOCKING OF ASSETS.**—Except to the extent  
24 provided in regulations, orders, instructions, licenses, or  
25 directives issued pursuant to this Act, and notwith-

1 standing any contract entered into or any license or permit  
2 granted prior to the date on which the President submits  
3 the report required under subsection (b) or (h)(1) of sec-  
4 tion 4, there are blocked as of such date, and any date  
5 thereafter, all such property and interests in property  
6 within the United States, or within the possession or con-  
7 trol of any United States person, which are owned or con-  
8 trolled by—

9           (1) any significant foreign narcotics trafficker  
10 publicly identified by the President in the report re-  
11 quired under subsection (b) or (h)(1) of section 4;

12           (2) any foreign person that the Secretary of the  
13 Treasury, in consultation with the Attorney General,  
14 the Director of Central Intelligence, the Director of  
15 the Federal Bureau of Investigation, the Adminis-  
16 trator of the Drug Enforcement Administration, the  
17 Secretary of Defense, and the Secretary of State,  
18 designates as materially assisting in, or providing fi-  
19 nancial or technological support for or to, or pro-  
20 viding goods or services in support of, the inter-  
21 national narcotics trafficking activities of a signifi-  
22 cant foreign narcotics trafficker so identified in the  
23 report required under subsection (b) or (h)(1) of sec-  
24 tion 4, or foreign persons designated by the Sec-  
25 retary of the Treasury pursuant to this subsection;

1           (3) any foreign person that the Secretary of the  
2 Treasury, in consultation with the Attorney General,  
3 the Director of Central Intelligence, the Director of  
4 the Federal Bureau of Investigation, the Adminis-  
5 trator of the Drug Enforcement Administration, the  
6 Secretary of Defense, and the Secretary of State,  
7 designates as owned, controlled, or directed by, or  
8 acting for or on behalf of, a significant foreign nar-  
9 cotics trafficker so identified in the report required  
10 under subsection (b) or (h)(1) of section 4, or for-  
11 eign persons designated by the Secretary of the  
12 Treasury pursuant to this subsection; and

13           (4) any foreign person that the Secretary of the  
14 Treasury, in consultation with the Attorney General,  
15 the Director of Central Intelligence, the Director of  
16 the Federal Bureau of Investigation, the Adminis-  
17 trator of the Drug Enforcement Administration, the  
18 Secretary of Defense, and the Secretary of State,  
19 designates as playing a significant role in inter-  
20 national narcotics trafficking.

21           (c) PROHIBITED TRANSACTIONS.—Except to the ex-  
22 tent provided in regulations, orders, instructions, licenses,  
23 or directives issued pursuant to this Act, and notwith-  
24 standing any contract entered into or any license or permit  
25 granted prior to the date on which the President submits

1 the report required under subsection (b) or (h)(1) of sec-  
2 tion 4, the following transactions are prohibited:

3 (1) Any transaction or dealing by a United  
4 States person, or within the United States, in prop-  
5 erty or interests in property of any significant for-  
6 eign narcotics trafficker so identified in the report  
7 required pursuant to subsection (b) or (h)(1) of sec-  
8 tion 4, and foreign persons designated by the Sec-  
9 retary of the Treasury pursuant to subsection (b) of  
10 this section.

11 (2) Any transaction or dealing by a United  
12 States person, or within the United States, that  
13 evades or avoids, or has the effect of evading or  
14 avoiding, and any endeavor, attempt, or conspiracy  
15 to violate, any of the prohibitions contained in this  
16 Act.

17 (d) LAW ENFORCEMENT AND INTELLIGENCE ACTIVI-  
18 TIES NOT AFFECTED.—Nothing in this Act prohibits or  
19 otherwise limits the authorized law enforcement or intel-  
20 ligence activities of the United States, or the law enforce-  
21 ment activities of any State or subdivision thereof.

22 (e) IMPLEMENTATION.—(1) The Secretary of the  
23 Treasury, in consultation with the Attorney General, the  
24 Director of Central Intelligence, the Director of the Fed-  
25 eral Bureau of Investigation, the Administrator of the

1 Drug Enforcement Administration, the Secretary of De-  
2 fense, and the Secretary of State, is authorized to take  
3 such actions as may be necessary to carry out this Act,  
4 including—

5 (A) making those designations authorized by  
6 paragraphs (2), (3), and (4) of subsection (b) of this  
7 section and revocation thereof;

8 (B) promulgating rules and regulations per-  
9 mitted under this Act; and

10 (C) employing all powers conferred on the Sec-  
11 retary of the Treasury under this Act.

12 (2) Each agency of the United States shall take all  
13 appropriate measures within its authority to carry out the  
14 provisions of this Act.

15 (3) Section 552(a)(3) of title 5, United States Code,  
16 shall not apply to any record or information obtained or  
17 created in the implementation of this Act.

18 (f) JUDICIAL REVIEW.—The determinations, identi-  
19 fications, findings, and designations made pursuant to sec-  
20 tion 4 and subsection (b) of this section shall not be sub-  
21 ject to judicial review.

22 **SEC. 6. AUTHORITIES.**

23 (a) IN GENERAL.—To carry out the purposes of this  
24 Act, the Secretary of the Treasury may, under such regu-

1 lations as he may prescribe, by means of instructions, li-  
2 censes, or otherwise—

3 (1) investigate, regulate, or prohibit—

4 (A) any transactions in foreign exchange,  
5 currency, or securities; and

6 (B) transfers of credit or payments be-  
7 tween, by, through, or to any banking institu-  
8 tion, to the extent that such transfers or pay-  
9 ments involve any interests of any foreign coun-  
10 try or a national thereof; and

11 (2) investigate, block during the pendency of an  
12 investigation, regulate, direct and compel, nullify,  
13 void, prevent, or prohibit any acquisition, holding,  
14 withholding, use, transfer, withdrawal, transpor-  
15 tation, placement into foreign or domestic commerce  
16 of, or dealing in, or exercising any right, power, or  
17 privilege with respect to, or transactions involving,  
18 any property in which any foreign country or a na-  
19 tional thereof has any interest,

20 by any person, or with respect to any property, subject  
21 to the jurisdiction of the United States.

22 (b) RECORDKEEPING.—Pursuant to subsection (a),  
23 the Secretary of the Treasury may require recordkeeping,  
24 reporting, and production of documents to carry out the  
25 purposes of this Act.

1 (c) DEFENSES.—

2 (1) Full and actual compliance with any regula-  
3 tion, order, license, instruction, or direction issued  
4 under this Act shall be a defense in any proceeding  
5 alleging a violation of any of the provisions of this  
6 Act.

7 (2) No person shall be held liable in any court  
8 for or with respect to anything done or omitted in  
9 good faith in connection with the administration of,  
10 or pursuant to, and in reliance on this Act, or any  
11 regulation, instruction, or direction issued under this  
12 Act.

13 (d) RULEMAKING.—The Secretary of the Treasury  
14 may issue such other regulations or orders, including regu-  
15 lations prescribing recordkeeping, reporting, and produc-  
16 tion of documents, definitions, licenses, instructions, or di-  
17 rections, as may be necessary for the exercise of the au-  
18 thorities granted by this Act.

19 **SEC. 7. ENFORCEMENT.**

20 (a) CRIMINAL PENALTIES.—(1) Whoever willfully  
21 violates the provisions of this Act, or any license rule, or  
22 regulation issued pursuant to this Act, or willfully neglects  
23 or refuses to comply with any order of the President issued  
24 under this Act shall be—

25 (A) imprisoned for not more than 10 years,



1 (B) fined in the amount provided in title 18,  
2 United States Code, or, in the case of an entity,  
3 fined not more than \$10,000,000,  
4 or both.

5 (2) Any officer, director, or agent of any entity who  
6 knowingly participates in a violation of the provisions of  
7 this Act shall be imprisoned for not more than 30 years,  
8 fined not more than \$5,000,000, or both.

9 (b) CIVIL PENALTIES.—A civil penalty not to exceed  
10 \$1,000,000 may be imposed by the Secretary of the Treas-  
11 ury on any person who violates any license, order, rule,  
12 or regulation issued in compliance with the provisions of  
13 this Act.

14 (c) JUDICIAL REVIEW OF CIVIL PENALTY.—Any pen-  
15 alty imposed under subsection (b) shall be subject to judi-  
16 cial review only to the extent provided in section 702 of  
17 title 5, United States Code.

18 **SEC. 8. DEFINITIONS.**

19 As used in this Act:

20 (1) ENTITY.—The term “entity” means a part-  
21 nership, joint venture, association, corporation, orga-  
22 nization, network, group, or subgroup, or any form  
23 of business collaboration.

24 (2) FOREIGN PERSON.—The term “foreign per-  
25 son” means any citizen or national of a foreign state

1 or any entity not organized under the laws of the  
2 United States, but does not include a foreign state.

3 (3) NARCOTICS TRAFFICKING.—The term “nar-  
4 cotics trafficking” means any illicit activity to cul-  
5 tivate, produce, manufacture, distribute, sell, fi-  
6 nance, or transport narcotic drugs, controlled sub-  
7 stances, or listed chemicals, or otherwise endeavor or  
8 attempt to do so, or to assist, abet, conspire, or  
9 collude with others to do so.

10 (4) NARCOTIC DRUG; CONTROLLED SUBSTANCE;  
11 LISTED CHEMICAL.—The terms “narcotic drug”,  
12 “controlled substance”, and “listed chemical” have  
13 the meanings given those terms in section 102 of the  
14 Controlled Substances Act (21 U.S.C. 802).

15 (5) PERSON.—The term “person” means an in-  
16 dividual or entity.

17 (6) UNITED STATES PERSON.—The term  
18 “United States person” means any United States  
19 citizen or national, permanent resident alien, an en-  
20 tity organized under the laws of the United States  
21 (including its foreign branches), or any person with-  
22 in the United States.

23 (7) SIGNIFICANT FOREIGN NARCOTICS TRAF-  
24 FICKER.—The term “significant foreign narcotics  
25 trafficker” means any foreign person that plays a

1 significant role in international narcotics trafficking,  
2 that the President has determined to be appropriate  
3 for sanctions pursuant to this Act, and that the  
4 President has publicly identified in the report re-  
5 quired under subsection (b) or (h)(1) of section 4.

6 **SEC. 9. EXCLUSION OF PERSONS WHO HAVE BENEFITED**  
7 **FROM ILLICIT ACTIVITIES OF DRUG TRAF-**  
8 **FICKERS.**

9 Section 212(a)(2)(C) of the Immigration and Nation-  
10 ality Act (8 U.S.C. 1182(a)(2)(C)) is amended to read as  
11 follows:

12 “(C) CONTROLLED SUBSTANCE TRAF-  
13 FICKERS.—Any alien who the consular officer  
14 or the Attorney General knows or has reason to  
15 believe—

16 “(i) is or has been an illicit trafficker  
17 in any controlled substance or in any listed  
18 chemical (as defined in section 102 of the  
19 Controlled Substances Act (21 U.S.C.  
20 802)), or is or has been a knowing aider,  
21 abettor, assister, conspirator, or colluder  
22 with others in the illicit trafficking in any  
23 such controlled or listed substance or  
24 chemical, or endeavored to do so; or

1           “(ii) is the spouse, son, or daughter of  
2           an alien inadmissible under clause (i), has,  
3           within the previous 5 years, obtained any  
4           financial or other benefit from the illicit  
5           activity of that alien, and knew or reason-  
6           ably should have known that the financial  
7           or other benefit was the product of such il-  
8           licit activity,  
9           is inadmissible.”.

10 **SEC. 10. EFFECTIVE DATE.**

11           This Act shall take effect on the date of the enact-  
12           ment of this Act.

          Passed the House of Representatives November 2,  
1999.

Attest:

JEFF TRANDAHL,  
*Clerk.*