

Presidential Documents

Presidential Determination No. 2003-38 of September 15, 2003

Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for 2004

Memorandum for the Secretary of State

Consistent with section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107-228) (the "FRAA"), I hereby identify the following countries as major drug-transit or major illicit drug producing countries: Afghanistan, The Bahamas, Bolivia, Brazil, Burma, China, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, Thailand, Venezuela, and Vietnam.

The Majors List applies by its terms to "countries". The United States Government interprets the term broadly to include entities that exercise autonomy over actions or omissions that could lead to a decision to place them on the list and, subsequently, to determine their eligibility for certification. A country's presence on the Majors List is not necessarily an adverse reflection of its government's counternarcotics efforts or level of cooperation with the United States.

Consistent with the statutory definition of a major drug-transit or drug-producing country set forth in section 481(e)(5) of the Foreign Assistance Act of 1961, as amended (the "FAA"), one of the reasons that major drug-transit or drug producing countries are placed on the list is the combination of geographical, commercial, and economic factors that allow drugs to transit or be produced despite the concerned government's most assiduous enforcement measures. Consistent with section 706(2)(A) of the FRAA, I hereby designate Burma and Haiti as countries that have failed demonstrably during the previous 12 months to adhere to their obligations under international counternarcotics agreements and take the measures set forth in section 489(a)(1) of the FAA. Attached to this report are justifications (statements of explanation) for each of the countries so designated, as required by section 706(2)(B).

I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that provision of U.S. assistance to Haiti in FY 2004 is vital to the national interests of the United States.

Combating the threat of synthetic drugs remains a priority, particularly the threat from club drugs, including MDMA (Ecstasy). Since January, we have redoubled our efforts with The Netherlands, from which the majority of U.S. MDMA seizures originate. I commend the Government of The Netherlands for its efforts to address this scourge, including increased enforcement, improved risk assessment and targeting capabilities of passenger aircraft and cargo, and international cooperation to control precursor chemicals. I urge the Government of The Netherlands to focus its efforts on dismantling the significant criminal organizations responsible for this illicit trade, using all tools available to law enforcement. Continued progress in implementing our joint action plan, developed in March, should have a significant impact on the production and transit of MDMA from The Netherlands to the United States. Although we have seen a stabilization of MDMA use rates domestically, there is an increase in the number of countries in which MDMA is produced and trafficked. We will continue to monitor the threat from synthetic drugs and the emerging trends.

The United States and Canada are both targeted by international trafficking organizations. We continue to work closely with the Government of Canada to stem the flow of illicit drugs to our countries and across our common borders. The United States remains concerned about the diversion of large quantities of precursor chemicals from Canada into the United States for use in producing methamphetamines. We hope that Canada's newly implemented control regulations will disrupt that flow. The United States is also concerned about widespread Canadian cultivation of high-potency marijuana, significant amounts of which are smuggled into the United States from Canada. We will work with the Government of Canada in the coming year to combat these shared threats to the security and health of our citizens.

In the 8 months since my January determination that Guatemala had failed demonstrably in regard to its counternarcotics responsibilities, the Government of Guatemala has made efforts to improve its institutional capabilities, adhere to its obligations under international counternarcotics agreements, and take measures set forth in U.S. law. These initial steps show Guatemala's willingness to better its counternarcotics practices, but the permanence of these improvements has yet to be demonstrated. I expect Guatemala to continue its efforts and to demonstrate further progress in the coming year.

We are deeply concerned about heroin and methamphetamine linked to North Korea being trafficked to East Asian countries, and are increasingly convinced that state agents and enterprises in the DPRK are involved in the narcotics trade. While we suspect opium poppy is cultivated in the DPRK, reliable information confirming the extent of opium production is currently lacking. There are also clear indications that North Koreans traffic in, and probably manufacture, methamphetamine. In recent years, authorities in the region have routinely seized shipments of methamphetamine and/or heroin that had been transferred to traffickers' ships from North Korean vessels. The April 2003 seizure of 125 kilograms of heroin smuggled to Australia aboard the North Korean-owned vessel "Pong Su" is the latest and largest seizure of heroin pointing to North Korean complicity in the drug trade. Although there is no evidence that narcotics originating in or transiting North Korea reach the United States, the United States is intensifying its effort to stop North Korean involvement in illicit narcotics production and trafficking and to enhance law-enforcement cooperation with affected countries in the region to achieve that objective.

You are hereby authorized and directed to submit this report under section 706 of the FRAA, transmit it to the Congress, and publish it in the **Federal Register**.



THE WHITE HOUSE,
Washington, September 15, 2003.

Statement of Explanation**Burma**

The United States has determined that Burma failed demonstrably to make sufficient efforts during the last 12 months to meet its obligations under international counternarcotics agreements and the counternarcotics requirements set forth in section 489(a)(1) of the Foreign Assistance Act of 1961, as amended.

Burma remains among the world's largest producers and traffickers of amphetamine-type stimulants (ATS), and the world's second largest producer of illicit opium. Although precise figures are hard to come by, production and trafficking of methamphetamine from Burma continues to be one of the most serious problems facing Southeast Asia. Neighboring countries seized tens of millions of ATS tablets produced in Burma with precursor chemicals imported from other countries, and the explosion of synthetic drugs remained a major threat to national security and public health throughout the region.

The Government of Burma did little to hinder activities of drug gangs that operate freely along its borders with China, Thailand and Laos. Burma also failed to restrict involvement in illicit narcotics by the largest, most powerful, and most important trafficking organization in Burma, the United Wa State Army (UWSA). Major UWSA traffickers continue to operate with apparent impunity in areas outside government control, and UWSA involvement in methamphetamine production and trafficking remains a serious concern.

Implementation of money laundering legislation, enacted in 2002, faltered in 2003. Despite opening a few cases, the Government of Burma has undertaken no prosecutions, and a February banking crisis appeared to have halted further efforts to implement the law. Burma continued to permit UWSA and other trafficking organizations to own commercial banks and invest in other economic activities.

While the magnitude of the above issues resulted in a determination not to certify, Burma's counternarcotics performance over the past 12 months registered some positive aspects. Although Burma remains the world's second largest producer of illicit opium, opium cultivation declined a further 24 percent, according to the U.N. Office of Drugs and Crime. While the return of good weather brought much higher yields, overall production still declined for the sixth consecutive year.

The Government of Burma cooperated with regional and international counternarcotics agencies and organizations, resulting in several cases against traffickers and their organizations in cooperation with the United States, Australia, Thailand, China, and others. Burma also signed agreements in 2003 with China and India on the control of precursor chemicals.

We urge the Government of Burma to address those areas where its efforts have fallen far short, and to treat its counternarcotics obligations with the utmost seriousness.

Statement of Explanation**Haiti**

The United States has determined that Haiti has failed demonstrably to make sufficient efforts during the last 12 months on counternarcotics issues, including its obligations under international counternarcotics agreements and counternarcotics requirements set forth in section 489(a)(1) of the Foreign Assistance Act of 1961 (as amended). Haiti remains a transshipment point for drugs moving towards the United States, and the Government of Haiti (GOH) has done little to cooperate with the United States to interdict the flow of drugs destined for the United States or to honor its commitments as a party to the 1988 U.N. Drug Convention.

With the notable and praiseworthy exceptions of expelling notorious drug trafficker Jacques Ketant, establishing a trusted unit of anti-drug agents, and increasing the number of anti-drug police including coast guardsmen, the GOH has not met all of the objectives or obtained the results laid out by the United States Government in its demarche to the GOH this past year.

The GOH did not: 1) deposit an instrument of ratification of the OAS anti-corruption convention; 2) draft and introduce anti-corruption legislation; 3) enforce existing anti-money-laundering legislation; 4) increase budgetary support for the Haitian Coast Guard; 5) ensure that asset forfeiture is an integral part of criminal prosecutions; 6) provide comprehensive training to judges, prosecutors and law enforcement personnel; 7) waive the right to exercise prosecutorial jurisdiction in cases of non-Haitian vessels interdicted by U.S. Coast Guard, and authorize enforcement of U.S. law against the vessels, cargo and persons on board; or 8) ratify the 1971 U.N. Convention on Psychotropic Substances.

While Haiti has demonstrably failed, according to the President's standards for counternarcotics performance, the U.S. vital national interests require that U.S. assistance to Haiti continue. As the hemisphere's poorest country, Haiti has a continued need for assistance to programs that increase access to education, combat environmental degradation, fight the spread of HIV/AIDS, reduce trafficking of women and children, and foster the creation of legitimate business and employment opportunities. In the long term, these programs can contribute to democratic development in Haiti and a reduction in illegal migration. Continuing these types of programs will also address the root causes of poverty and hopelessness, factors that contribute to Haitian involvement in the international drug trade. Suspension of assistance to Haiti could hamper U.S. efforts to ensure implementation of OAS Resolution 822, which commits the Government of Haiti to a series of actions that would promote a climate of security and confidence for free and fair legislative elections to be held in 2003.

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