

Calendar No. 32

107TH CONGRESS
1ST SESSION

S. 219

To suspend for two years the certification procedures under section 490(b) of the Foreign Assistance Act of 1961 in order to foster greater multilateral cooperation in international counternarcotics programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2001

Mr. DODD (for himself, Mr. MCCAIN, Mr. HOLLINGS, Mr. HAGEL, Mrs. BOXER, Mr. CHAFEE, Mr. LUGAR, and Mr. WELLSTONE) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

APRIL 5, 2001

Reported by Mr. HELMS, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To suspend for two years the certification procedures under section 490(b) of the Foreign Assistance Act of 1961 in order to foster greater multilateral cooperation in international counternarcotics programs, and for other purposes.

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. TWO-YEAR SUSPENSION OF DRUG CERTIFI-**
2 **CATION PROCEDURES.**

3 (a) FINDINGS.—Congress makes the following find-
4 ings:

5 (1) The international drug trade poses a direct
6 threat to the United States and to international ef-
7 forts to promote democracy, economic stability,
8 human rights, and the rule of law.

9 (2) The United States has a vital national in-
10 terest in combating the financial and other resources
11 of the multinational drug cartels, which resources
12 threaten the integrity of political and financial insti-
13 tutions both in the United States and abroad.

14 (3) Illegal drug use occurs among members of
15 every ethnic and socioeconomic group in the United
16 States.

17 (4) Worldwide drug trafficking generates reve-
18 nues estimated at \$400,000,000,000 annually.

19 (5) The 1961 Single Convention on Narcotic
20 Drugs, the 1971 Convention on Psychotropic Sub-
21 stances, and the 1988 Convention Against Illicit
22 Traffic in Narcotic Drugs and Psychotropic Sub-
23 stances form the legal framework for international
24 drug control cooperation.

25 (6) The United Nations International Drug
26 Control Program, the International Narcotics Con-

trol Board, and the Organization of American States can play important roles in facilitating the development and implementation of more effective multilateral programs to combat both domestic and international drug trafficking and consumption.

(7) The annual certification process required by section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j), which has been in effect since 1986, does not currently foster effective and consistent bilateral or multilateral cooperation with United States counternarcotics programs because its provisions are vague and inconsistently applied and in many cases have been superseded by subsequent bilateral and multilateral agreements and because it alienates the very allies whose cooperation we seek.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) many governments are extremely concerned by the national security threat posed by illicit drug production, distribution, and consumption, and crimes related thereto, particularly those in the Western Hemisphere;

(2) an enhanced multilateral strategy should be developed among drug producing, transit, and consuming nations designed to improve cooperation with

1 respect to the investigation and prosecution of drug
 2 related crimes, and to make available information on
 3 effective drug education and drug treatment;

4 (3) the President should at the earliest feasible
 5 date in 2001 convene a conference of heads of state
 6 of major illicit drug producing countries, major drug
 7 transit countries, and major money laundering coun-
 8 tries to present and review country by country drug
 9 reduction and prevention strategies relevant to the
 10 specific circumstances of each country, and agree to
 11 a program and timetable for implementation of such
 12 strategies; and

13 (4) not later than one year after the date of the
 14 enactment of this Act, the President should transmit
 15 to Congress legislation to implement a proposed
 16 multilateral strategy to achieve the goals referred to
 17 in paragraph (2), including any amendments to ex-
 18 isting law that may be required to implement that
 19 strategy.

20 (e) TWO-YEAR SUSPENSION OF DRUG CERTIFI-
 21 CATION PROCESS.—(1) Subsections (a) through (g) of sec-
 22 tion 490 of the Foreign Assistance Act of 1961 (22 U.S.C.
 23 2291j), relating to annual certification procedures for as-
 24 sistance for certain drug-producing countries and drug-
 25 transit countries, shall not apply in the first 2 calendar

1 years beginning after the date of the enactment of this
2 Act.

3 (2) Notwithstanding any provision of paragraph (1),
4 section 489 of the Foreign Assistance Act of 1961 (22
5 U.S.C. 2291h), relating to the international narcotics con-
6 trol strategy report, and section 490(h) of that Act (22
7 U.S.C. 2291j(h)), relating to determinations of major
8 drug-transit countries and major illicit drug producing
9 countries, shall continue to apply in the 2 calendar years
10 referred to in that paragraph.

11 (3) The President may waive the applicability of
12 paragraph (1) to one or more countries in one or both
13 of the calendar years referred to in that paragraph if the
14 President determines that bilateral counternarcotics co-
15 operation would be enhanced by the applicability of sub-
16 sections (a) through (g) of section 490 of the Foreign As-
17 sistance Act of 1961 to such country or countries in such
18 calendar year.

19 (d) APPLICABILITY.—(1) Except as provided in para-
20 graph (2), the provisions of subsection (c) shall take effect
21 on the date of the enactment of this Act and apply with
22 respect to certifications otherwise required under section
23 490 of the Foreign Assistance of 1961 in the first two
24 fiscal years beginning after that date.

1 ~~(2) If this Act is enacted on or before February 28,~~
 2 ~~2001, the provisions of subsection (e) shall take effect on~~
 3 ~~the date of the enactment of this Act and apply with re-~~
 4 ~~spect to certifications otherwise required under section~~
 5 ~~490 of the Foreign Assistance of 1961 in fiscal years 2001~~
 6 ~~and 2002.~~

7 **SECTION 1. FINDINGS.**

8 *Congress makes the following findings:*

9 *(1) The international drug trade poses a direct*
 10 *threat to the United States and to international ef-*
 11 *forts to promote democracy, economic stability,*
 12 *human rights, and the rule of law.*

13 *(2) The United States has a vital national inter-*
 14 *est in combating the financial and other resources of*
 15 *the multinational drug cartels, which resources*
 16 *threaten the integrity of political and financial insti-*
 17 *tutions both in the United States and abroad.*

18 *(3) Illegal drug use occurs among members of*
 19 *every ethnic and socioeconomic group in the United*
 20 *States.*

21 *(4) Worldwide drug trafficking generates reve-*
 22 *nues estimated at \$400,000,000,000 annually.*

23 *(5) The Single Convention on Narcotic Drugs,*
 24 *1961, as amended by the 1972 Protocol Amending the*
 25 *Single Convention on Narcotic Drugs, 1961, the Con-*

1 *vention on Psychotropic Substances, 1971, and the*
2 *United Nations Convention Against Illicit Traffic in*
3 *Narcotic Drugs and Psychotropic Substances, 1988*
4 *provide the basic framework for international drug*
5 *control cooperation.*

6 *(6) The United Nations International Drug Con-*
7 *trol Program, the International Narcotics Control*
8 *Board, and the Organization of American States can*
9 *play important roles in facilitating the development*
10 *and implementation of more effective multilateral*
11 *programs to combat both domestic and international*
12 *drug trafficking and consumption.*

13 *(7) The United States Government should con-*
14 *sider alternatives to, or improvements in, the annual*
15 *certification process required by section 490 of the*
16 *Foreign Assistance Act of 1961 (22 U.S.C. 2291j), in*
17 *order to foster more effective and consistent bilateral*
18 *and multilateral cooperation with United States*
19 *counternarcotics programs.*

1 **SEC. 2. THREE-YEAR MODIFICATION OF PROCEDURES RE-**
 2 **LATING TO ASSISTANCE FOR MAJOR DRUG-**
 3 **TRANSIT AND MAJOR ILLICIT DRUG PRO-**
 4 **DUCING COUNTRIES.**

5 (a) *IN GENERAL.*—Chapter 8 of part I of the Foreign
 6 Assistance Act of 1961 (22 U.S.C. 2291 et seq.) is amended
 7 by adding at the end the following new section:

8 **“SEC. 490A. LIMITATIONS DURING FISCAL YEARS 2002, 2003,**
 9 **AND 2004 ON ASSISTANCE FOR MAJOR DRUG-**
 10 **TRANSIT AND MAJOR ILLICIT DRUG PRO-**
 11 **DUCING COUNTRIES.**

12 “(a) *ANNUAL DETERMINATION OF MAJOR DRUG-*
 13 *TRANSIT OR MAJOR ILLICIT DRUG PRODUCING COUN-*
 14 *TRIES.*—Not later than October 1 of 2001, 2002, and 2003,
 15 the President shall submit to the appropriate congressional
 16 committees a report identifying each country determined by
 17 the President to be a major drug-transit country or major
 18 illicit drug producing country for the purposes of this Act.

19 “(b) *DESIGNATION OF COUNTRIES NOT ADHERING TO*
 20 *INTERNATIONAL AGREEMENTS AND NOT MAKING COUNTER-*
 21 *NARCOTICS EFFORTS.*—In each report under subsection (a),
 22 the President shall also—

23 “(1) *designate each country, if any, identified in*
 24 *such report that has failed demonstrably, during the*
 25 *previous 12 months, to make substantial efforts—*

1 “(A) to adhere to its obligations under
2 international counternarcotics agreements; and

3 “(B) to take the counternarcotics measures
4 set forth in section 489(a)(1); and

5 “(2) include a justification for each country so
6 designated.

7 “(c) *LIMITATION ON ASSISTANCE FOR DESIGNATED*
8 *COUNTRIES.*—*In the case of a country identified in a report*
9 *for a fiscal year under subsection (a) that is also designated*
10 *under subsection (b) in the report for such fiscal year,*
11 *United States assistance may be provided to the country*
12 *in such fiscal year only if the President determines and re-*
13 *ports to the appropriate congressional committees that—*

14 “(1) *provision of such assistance to the country*
15 *in such fiscal year is vital to the national interests*
16 *of the United States; or*

17 “(2) *commencing at any time after October 1 of*
18 *such fiscal year, the country has made substantial ef-*
19 *forts—*

20 “(A) to adhere to its obligations under
21 international counternarcotics agreements; and

22 “(B) to take the counternarcotics measures
23 set forth in section 489(a)(1).”.

1 “(d) *INTERNATIONAL COUNTERNARCOTICS AGREE-*
 2 *MENT DEFINED.*—*In this section, the term ‘international*
 3 *counternarcotics agreement’ means—*

4 “(1) *the United Nations Convention Against Il-*
 5 *licit Traffic in Narcotic Drugs and Psychotropic Sub-*
 6 *stances; or*

7 “(2) *any bilateral or multilateral agreement in*
 8 *force between the United States and another country*
 9 *or countries that addresses issues relating to the con-*
 10 *trol of illicit drugs, such as—*

11 “(A) *the production, distribution, and*
 12 *interdiction of illicit drugs,*

13 “(B) *demand reduction,*

14 “(C) *the activities of criminal organiza-*
 15 *tions,*

16 “(D) *international legal cooperation among*
 17 *courts, prosecutors, and law enforcement agencies*
 18 *(including the exchange of information and evi-*
 19 *dence),*

20 “(E) *the extradition of nationals and indi-*
 21 *viduals involved in drug-related criminal activ-*
 22 *ity,*

23 “(F) *the temporary transfer for prosecution*
 24 *of nationals and individuals involved in drug-re-*
 25 *lated criminal activity,*

1 “(G) border security,
 2 “(H) money laundering,
 3 “(I) illicit firearms trafficking,
 4 “(J) corruption,
 5 “(K) control of precursor chemicals,
 6 “(L) asset forfeiture, and
 7 “(M) related training and technical assist-
 8 ance;
 9 and includes, where appropriate, timetables and ob-
 10 jective and measurable standards to assess the
 11 progress made by participating countries with respect
 12 to such issues.”.

13 (b) *RELATIONSHIP TO PERMANENT LAW.*—

14 (1) *LIMITATION ON APPLICABILITY.*—Section 490
 15 of the Foreign Assistance Act of 1961 (22 U.S.C.
 16 2291j) is amended by adding at the end the following
 17 new subsection:

18 “(i) *LIMITATION ON APPLICABILITY.*—This section
 19 shall not apply during fiscal years 2002, 2003, and 2004.”.

20 (2) *STATUTORY CONSTRUCTION.*—Nothing in this
 21 Act, or any amendment made by this Act, supersedes
 22 or modifies the requirement in section 489(a) of the
 23 Foreign Assistance Act of 1961 for the transmittal of
 24 a report not later than March 1 of each year under
 25 that section.

1 **SEC. 3. SENSE OF CONGRESS ON ENHANCED INTER-**
2 **NATIONAL NARCOTICS CONTROL.**

3 *It is the sense of Congress that—*

4 *(1) many governments are extremely concerned*
5 *by the national security threat posed by illicit drug*
6 *production, distribution, and consumption, and*
7 *crimes related thereto, particularly those in the West-*
8 *ern Hemisphere;*

9 *(2) an enhanced multilateral strategy should be*
10 *developed among drug producing, transit, and con-*
11 *suming nations designed to improve cooperation with*
12 *respect to the investigation and prosecution of drug*
13 *related crimes, and to make available information on*
14 *effective drug education and drug treatment;*

15 *(3) the United States should at the earliest fea-*
16 *sible date in 2001 convene a conference of representa-*
17 *tives of major illicit drug producing countries, major*
18 *drug transit countries, and major money laundering*
19 *countries to present and review country by country*
20 *drug reduction and prevention strategies relevant to*
21 *the specific circumstances of each country, and agree*
22 *to a program and timetable for implementation of*
23 *such strategies; and*

24 *(4) not later than one year after the date of the*
25 *enactment of this Act, the President should transmit*
26 *to Congress any legislation necessary to implement a*

1 *proposed multilateral strategy to achieve the goals re-*
 2 *ferred to in paragraph (2), including any amend-*
 3 *ments to existing law that may be required to imple-*
 4 *ment that strategy.*

5 **SEC. 4. INCLUSION OF MAJOR FOREIGN DRUG TRAF-**
 6 **FICKING ORGANIZATIONS IN INTERNATIONAL**
 7 **NARCOTICS CONTROL STRATEGY REPORT.**

8 *Section 489 of the Foreign Assistance Act of 1961 (22*
 9 *U.S.C. 2291h) is amended—*

10 *(1) in subsection (a), by adding after the flush*
 11 *matter at the end of paragraph (7) the following new*
 12 *paragraph (8):*

13 *“(8) The identity, to the extent consistent with*
 14 *intelligence and law enforcement interests, of each for-*
 15 *foreign organization determined by the President to be*
 16 *a major drug trafficking organization, including a*
 17 *description of the activities of such organization dur-*
 18 *ing the two fiscal years preceding the fiscal year of*
 19 *the report.”; and*

20 *(2) by adding at the end the following new sub-*
 21 *section:*

22 *“(c) DEFINITIONS.—In this section:*

23 *“(1) MAJOR DRUG TRAFFICKING ORGANIZA-*
 24 *TION.—The term ‘major drug trafficking organiza-*
 25 *tion’ means any organization engaged in substantial*

1 *amounts of illicit activity to cultivate, produce, man-*
 2 *ufacture, distribute, sell, finance, or transport nar-*
 3 *cotic drugs, controlled substances, or listed chemicals,*
 4 *engaged in money laundering or proceeds from such*
 5 *activities, or that otherwise endeavors or attempts to*
 6 *do so, or to assist, abet, conspire, or collude with oth-*
 7 *ers to do so.*

8 “(2) *NARCOTIC DRUG, CONTROLLED SUBSTANCE,*
 9 *LISTED CHEMICAL.—The terms ‘narcotic drug’, ‘con-*
 10 *trolled substance’, and ‘listed chemical’ have the*
 11 *meanings given those terms in section 102 of the Con-*
 12 *trolled Substances Act (21 U.S.C. 802).’”.*

13 **SEC. 5. JUDICIAL REVIEW UNDER FOREIGN NARCOTICS**
 14 **KINGPIN DESIGNATION ACT.**

15 *Section 805 of the Foreign Narcotics Kingpin Designa-*
 16 *tion Act (title VIII of Public Law 106–120; 113 Stat. 1629;*
 17 *21 U.S.C. 1904) is amended by striking subsection (f).*

18 Amend the title so as to read: “A Bill to amend the
 19 Foreign Assistance Act of 1961 to provide alternative pro-
 20 cedures during fiscal years 2002, 2003, and 2004 for as-
 21 sistance for major drug-transit and major illicit drug pro-
 22 ducing countries, and for other purposes.”.

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107TH CONGRESS
1ST Session

S. 219

A BILL

To suspend for two years the certification procedures under section 490(b) of the Foreign Assistance Act of 1961 in order to foster greater multilateral cooperation in international counter-narcotics programs, and for other purposes.

APRIL 5, 2001

Reported with an amendment and an amendment to the title