

Calendar No. 574

104TH CONGRESS
2^D SESSION
S. 2053

A BILL

To strengthen narcotics control reporting requirements and to require the imposition of certain sanctions on countries that fail to take effective action against the production of and trafficking in illicit narcotic and psychotropic drugs and other controlled substances, and for other purposes.

SEPTEMBER 5, 1996

Read the second time and placed on the calendar

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 4, 1996

Mr. GRASSLEY (for himself, Mr. D'AMATO, and Mr. SHELBY) introduced the following bill; which was read the first time

SEPTEMBER 5, 1996

Read the second time and placed on the calendar

A BILL

To strengthen narcotics control reporting requirements and to require the imposition of certain sanctions on countries that fail to take effective action against the production of and trafficking in illicit narcotic and psychotropic drugs and other controlled substances, 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. SHORT TITLE.**

2 This Act may be cited as the “International Narcotics
3 Control Act of 1996”.

4 **SEC. 2. STRENGTHENING REPORTING AND CERTIFICATION**
5 **PROCESS.**

6 (a) IN GENERAL.—Section 489(a) of the Foreign As-
7 sistance Act of 1961 (22 U.S.C. 2191h(a)) is amended
8 by adding at the end the following new paragraph:

9 “(8) In addition, the report required by this
10 section shall also include information from the Unit-
11 ed States Trade Representative, in consultation with
12 the Secretary of State, on the bilateral trade rela-
13 tionship between the United States and each major
14 illicit drug producing country and each major drug-
15 transit country as determined under section 490(h),
16 including the volume of imports (by dollar value) en-
17 tering the United States from that country under
18 any preferential trade program. The report may be
19 submitted in classified form, as appropriate.”.

20 (b) MID-YEAR REPORT.—Section 490 of the Foreign
21 Assistance Act of 1961 (22 U.S.C. 2191j) is amended by
22 adding at the end the following new subsection:

23 “(i) MID-YEAR REPORT.—Not later than September
24 1 of each year, the President shall transmit to the appro-
25 priate committees of Congress a complete and detailed
26 mid-year report on the activities of each country not cer-

1 tified under subsection (b)(1)(A) or granted a national in-
2 terest waiver under subsection (b)(1)(B). The report shall
3 include information relating to—

4 “(1) the progress each such country is making
5 in meeting the standards for cooperation described
6 in subsection (b) (1) and (2); and

7 “(2) the degree to which each such country
8 meets the conditions of subsection (f)(2).”.

9 (c) CONSIDERATIONS REGARDING COOPERATION.—
10 Section 490(b)(2) of the Foreign Assistance Act of 1961
11 (22 U.S.C. 2291j(b)(2)) is amended—

12 (1) by striking “and” at the end of subpara-
13 graph (B);

14 (2) by striking the period at the end of sub-
15 paragraph (C) and inserting a semicolon; and

16 (3) by adding at the end the following new sub-
17 paragraphs:

18 “(D) adopted and is implementing an ef-
19 fective strategic plan to reduce or eliminate il-
20 licit cultivation, distribution, sale, transport,
21 and financing of narcotic and psychotropic
22 drugs, precursor chemicals, and other controlled
23 substances;

24 “(E) is permitting a representative from
25 the United States to be present and to certify

1 the destruction of illicit narcotic, psychotropic,
2 precursor chemicals, and other controlled sub-
3 stances;

4 “(F) is permitting regular, unscheduled
5 site inspections by a representative of the Unit-
6 ed States of equipment loaned or leased to that
7 country by the United States;

8 “(G) is taking all necessary steps to ensure
9 the proper supervision of individuals in the cus-
10 tody of that country for narcotics-related activi-
11 ties or for money laundering and is taking all
12 appropriate steps to assure that such individ-
13 uals are not trafficking or engaging in money
14 laundering or other narcotics-related activities
15 while in custody; and

16 “(H) is taking all necessary steps to pre-
17 vent the diversion of United States assistance
18 or equipment, including fully cooperating with
19 United States officials responsible for monitor-
20 ing the use, maintenance, or location of United
21 States equipment.”.

22 (d) ADDITIONAL REPORTING REQUIREMENTS.—Sec-
23 tion 489(a) of the Foreign Assistance Act (22 U.S.C.
24 2191h(a)), as amended by subsection (a), is amended by
25 adding at the end the following new paragraph:

1 “(9)(A) In addition, for each country identified
2 pursuant to paragraph (3) (A) or (B), the Depart-
3 ment of State, or other appropriate negotiating
4 agency, shall notify the Committee on Foreign Rela-
5 tions of the Senate and the Committee on Inter-
6 national Relations of the House of Representatives
7 within 10 calendar days of reaching an agreement
8 on the extradition of an individual. The notification
9 shall contain the following:

10 “(i) The date the agreement was reached.

11 “(ii) The name of the countries, if applica-
12 ble, that are involved in the agreement, as well
13 as the citizenship of each individual who is to
14 be extradited.

15 “(iii) The name of each individual for
16 whom the extradition agreement was made, in-
17 cluding the charges pending against the individ-
18 ual.

19 “(iv) What, if any, arrangements have
20 been made by the United States in order to
21 conclude or facilitate the extradition agreement.

22 “(v) The date that each extradition is to
23 occur.

24 “(B) The notification described in subpara-
25 graph (A) may be waived if the notification would

1 compromise the national security interests of the
2 United States, and the appropriate committees of
3 the Congress are notified in writing of the waiver.
4 Notification shall be made once national security in-
5 terests are no longer threatened and shall be accom-
6 panied with an appropriate explanation of the rea-
7 sons for the original waiver.”.

8 **SEC. 3. STRENGTHENING TRADE SANCTIONS.**

9 (a) **REQUIRED TRADE SANCTIONS.**—Section 802 of
10 the Trade Act of 1974 (19 U.S.C. 2492) is amended—

11 (1) by striking subsections (d) and (e); and

12 (2) by inserting after subsection (c) the follow-
13 ing new subsections:

14 “(d) **REQUIRED TRADE SANCTIONS.**—

15 “(1) **IN GENERAL.**—

16 “(A) **RECOMMENDATIONS.**—Notwithstand-
17 ing subsections (a) and (b), not later than April
18 1 of each year, the Secretary of State, in con-
19 sultation with the United States Trade Rep-
20 resentative and appropriate agencies, shall rec-
21 ommend to the President the imposition of one
22 or more of the trade sanctions described in
23 paragraph (2) in the case of a country de-
24 scribed in subparagraph (B).

1 “(B) COUNTRY DESCRIBED.—A country is
2 described in this subparagraph if—

3 “(i) it is—

4 “(I) a major illicit drug produc-
5 ing country; or

6 “(II) a major drug-transit coun-
7 try; and

8 “(ii) with respect to such country, for
9 3 consecutive years—

10 “(I) the President—

11 “(aa) does not make a cer-
12 tification pursuant to section
13 490(b)(1)(A) of the Foreign As-
14 sistance Act of 1961; or

15 “(bb) grants a national in-
16 terest waiver under section
17 490(b)(1)(B) of such Act; or

18 “(II) if the President makes such
19 certification or grants such waiver,
20 the Congress enacts a joint resolution
21 under section 490(d) of such Act dis-
22 approving the action of the President.

23 “(2) REQUIRED TRADE SANCTIONS.—

1 “(A) IN GENERAL.—A trade sanction de-
2 scribed in this paragraph means with respect to
3 a country described in paragraph (1)(B)—

4 “(i) denial of nondiscriminatory treat-
5 ment or preferential tariff treatment to
6 any or all of the 5 major products of the
7 country under title V (relating to the Gen-
8 eralized System of Preferences), the Carib-
9 bean Basin Economic Recovery Act, the
10 Andean Trade Preference Act, or any
11 other law providing preferential tariff
12 treatment;

13 “(ii) application of an additional duty
14 at a rate not to exceed 50 percent ad valo-
15 rem, or the specific rate equivalent, to any
16 or all of the 5 major dutiable products of
17 the country;

18 “(iii) application of a duty at a rate
19 not to exceed 50 percent ad valorem to one
20 or more of the 5 major duty-free products
21 of the country;

22 “(iv) implementation of the steps de-
23 scribed in subsection (g) (1) or (2), or
24 both, to curtail air transportation between
25 the United States and the country;

1 “(v) withdrawal of the personnel and
2 resources of the United States from par-
3 ticipation in any arrangement with the
4 country for the preclearance of customs by
5 visitors between the United States and the
6 country;

7 “(vi) denial of trade benefits under
8 any agreement between that country and
9 the United States establishing a free trade
10 area;

11 “(vii) refusal to continue to negotiate
12 with that country for purposes of establish-
13 ing a free trade area;

14 “(viii) notwithstanding any other pro-
15 vision of law, denial or imposition of re-
16 strictions on immigrant and nonimmigrant
17 visas requested by nationals of that coun-
18 try;

19 “(ix) imposition of stricter inspection
20 standards on the products of that country,
21 including inspection of at least 35 percent
22 of the products of that country;

23 “(x) denial of export of United States
24 products to that country or importation
25 into the United States of products that are

1 the product, growth, or manufacture of
2 that country; or

3 “(xi) any combination of the actions
4 described in clauses (i) through (x).

5 “(B) REQUIREMENT FOR IMPOSITION OF
6 SANCTIONS.—Not later than 10 days after the
7 date the recommendations are submitted under
8 paragraph (1)(A), the President shall report to
9 the Congress which sanctions the President in-
10 tends to implement under this subsection and
11 not later than 90 days after the date of such
12 report, the President shall take at least one of
13 the actions described in subparagraph (A) with
14 respect to a country described in paragraph
15 (1)(B).

16 “(3) 5 MAJOR PRODUCTS.—For purposes of this
17 subsection, the term “5 major products” means the
18 top 5 products by dollar value imported from a
19 country described in paragraph (1) as identified in
20 the most recent report filed under section 489(a)(8)
21 of the Foreign Assistance Act of 1961.

22 “(e) DURATION OF ACTION.—Any action taken by
23 the President under subsection (d)(2)(A) (i), (ii), (iii), or
24 (iv) shall apply to the products of a foreign country that

1 are entered, or withdrawn from warehouse for consump-
2 tion, during the period that such action is in effect.

3 “(f) RECERTIFICATION.—Any action taken by the
4 President under subsection (d)(2)(A) against a country
5 shall remain in effect until—

6 “(1) the President, at the time of submission of
7 the report required by section 489(a) of the Foreign
8 Assistance Act of 1961, if appropriate—

9 “(A) makes a certification under section
10 490(b)(1)(A) of the Foreign Assistance Act of
11 1961 with respect to that country, if the action
12 was taken under subsection (d)(2)(B); and

13 “(B) the Congress does not enact a joint
14 resolution under section 490(d) of such Act dis-
15 approving the determination of the President
16 contained in that certification; or

17 “(2) the President, at any other time, makes
18 the certification described in section 490(b)(1)(B) of
19 such Act with respect to that country, except that
20 this paragraph applies only if either—

21 “(A) the President also certifies that—

22 “(i) that country has undergone a
23 fundamental change in the government; or

1 “(ii) there has been a fundamental
2 change in the conditions that were the rea-
3 son—

4 “(I) why the President had not
5 made a certification with respect to
6 that country under section
7 490(b)(1)(A) of such Act; or

8 “(II) in any case in which the
9 Congress enacted a joint resolution
10 disapproving the determination con-
11 tained in the certification, why the
12 Congress enacted that joint resolution;
13 and

14 “(B) the Congress does not enact a joint
15 resolution disapproving the determination con-
16 tained in the certification under section
17 490(b)(1)(B) of such Act.

18 Any certification under subparagraph (A) of para-
19 graph (2) shall be accompanied by a statement justi-
20 fying the determination contained in the certifi-
21 cation.

22 “(g) PRESIDENTIAL ACTION REGARDING AVIA-
23 TION.—

24 “(1) SUSPENSION OF AIR SERVICE.—(A) The
25 President is authorized to notify the government of

1 a country against which is imposed the sanction de-
2 scribed in subsection (d)(2)(A)(iv)) of the Presi-
3 dent's intention to suspend the authority of foreign
4 air carriers owned or controlled by the government
5 or nationals of that country to engage in foreign air
6 transportation to or from the United States.

7 “(B) Within 10 days after the date of notifica-
8 tion of a government under subparagraph (A), the
9 Secretary of Transportation shall take all steps nec-
10 essary to suspend at the earliest possible date the
11 authority of any foreign air carrier owned or con-
12 trolled, directly or indirectly, by the government or
13 nationals of that country to engage in foreign air
14 transportation to or from the United States, not-
15 withstanding any agreement relating to air services.

16 “(C) The President may also direct the Sec-
17 retary of Transportation to take such steps as may
18 be necessary to suspend the authority of any air car-
19 rier to engage in foreign air transportation between
20 the United States and that country.

21 “(2) TERMINATION OF AIR SERVICE AGREE-
22 MENT.—(A) The President may direct the Secretary
23 of State to terminate any air service agreement be-
24 tween the United States and a country against
25 which a sanction described in subsection (d)(2)(A) is

1 imposed in accordance with the provisions of that
2 agreement.

3 “(B) Upon termination of an agreement under
4 this paragraph, the Secretary of Transportation
5 shall take such steps as may be necessary to revoke
6 at the earliest possible date the right of any foreign
7 air carrier owned or controlled, directly or indirectly,
8 by the government or nationals of that country to
9 engage in foreign air transportation to or from the
10 United States.

11 “(C) Upon termination of an agreement under
12 this paragraph, the Secretary of Transportation may
13 also revoke the authority of any air carrier to engage
14 in foreign air transportation between the United
15 States and that country.

16 “(3) EXCEPTIONS.—The Secretary of Trans-
17 portation may provide for such exceptions from
18 paragraphs (1) and (2) as the Secretary considers
19 necessary to provide for emergencies in which the
20 safety of an aircraft or its crew or passengers is
21 threatened.

22 “(h) NOTIFICATION.—

23 “(1) IN GENERAL.—The President shall notify
24 the appropriate congressional committees any time
25 an action is taken under subsection (d) with respect

1 to a major illicit drug producing or major drug-transit
2 country.

3 “(2) MODIFICATION OR SUSPENSION OF AC-
4 TION.—The President shall also notify the appro-
5 priate congressional committees any time an action
6 taken under subsection (d) with respect to a major
7 illicit drug producing or major drug-transit country
8 is modified or suspended.

9 “(i) DEFINITIONS.—For purposes of this section:

10 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES.—The term ‘appropriate congressional com-
12 mittees’ means the Committee on Ways and Means
13 and the Committee on International Relations of the
14 House of Representatives and the Committee on Fi-
15 nance and the Committee on Foreign Relations of
16 the Senate.

17 “(2) FOREIGN AIR TRANSPORTATION, ETC.—
18 The terms ‘air transportation’, ‘air carrier’, ‘foreign
19 air carrier’, and ‘foreign air transportation’ have the
20 meanings such terms have under section 101 of the
21 Federal Aviation Act of 1958 (49 U.S.C. App.
22 1301).

23 “(3) MAJOR ILLICIT DRUG PRODUCING COUN-
24 TRY, ETC.—The terms ‘major illicit drug producing
25 country’ and ‘major drug-transit country’ have the

1 meanings such terms have under section 481(e) of
 2 the Foreign Assistance Act of 1961 (22 U.S.C.
 3 2291(e)).”.

4 (b) CONFORMING AMENDMENTS.—Section 802(a) of
 5 the Trade Act of 1974 (19 U.S.C. 2491(a)) is amended—

6 (1) by striking “Subject to” and inserting “Ex-
 7 cept as provided in subsection (d) and subject to”;
 8 and

9 (2) in paragraph (4), by striking “(d)(1) and
 10 (d)(2)” and inserting “(g)(1) and (g)(2)”.

11 **SEC. 4. INTERNATIONAL NARCOTICS CONTROL STRATEGY**

12 **REPORT.**

13 (a) REPORTS ON CERTAIN COUNTRIES.—Section
 14 489(a) of the Foreign Assistance Act of 1961 (22 U.S.C.
 15 2291h(a)), as amended by section 2, is amended by adding
 16 at the end the following new paragraph:

17 “(10) In addition, for each country identified
 18 under subparagraph (A), (B), or (C) of paragraph
 19 (3) for which the President is making a certification
 20 under section 490, information regarding—

21 “(A) what actions, if any, the United
 22 States has taken with regard to a country
 23 under section 487 and how the country has
 24 been affected by the President’s implementation
 25 of section 487; and

1 “(B) how the country has been economi-
2 cally affected by the production and trafficking
3 in narcotic and psychotropic drugs and con-
4 trolled substances.

5 The report shall include information regarding the
6 size of the illegal drug economy.”.

7 (b) GENERAL REPORTING REQUIREMENTS.—Section
8 489(a)(2) of such Act (22 U.S.C. 2291h(a)(2)) is amend-
9 ed by adding at the end the following new subparagraphs:

10 “(C) Information regarding the steps the
11 President is taking to implement section 487.

12 “(D) Information regarding the use of any
13 equipment made available to a foreign country
14 by the United States.”.

15 (c) DETERMINATION OF MAJOR MONEY LAUNDER-
16 ING COUNTRY.—Section 490(h) of such Act (22 U.S.C.
17 2291j(h)) is amended by adding at the end the following:
18 “For purposes of this chapter and section 802 of the
19 Trade Act of 1974, any country identified as a major
20 money laundering country in the report required under
21 section 489(a)(3)(C) shall be treated as a major drug-
22 transit country or a major illicit drug producing country.”.

1 **SEC. 5. DEFENSES OF THE UNITED STATES UNDER EXIST-**
2 **ING TRADE AGREEMENTS.**

3 If proceedings are initiated by a country against the
4 United States in the World Trade Organization or under
5 the North American Free Trade Agreement with respect
6 to actions taken pursuant to title VIII of the Trade Act
7 of 1974 (19 U.S.C. 2491 et seq.), the President shall in-
8 voke all applicable defenses in such proceedings, including
9 exceptions for measures necessary to protect the national
10 security of the United States and to protect human, ani-
11 mal or plant life, or health.

12 **SEC. 6. SPECIAL RULE FOR APPLICATION OF SECTION**
13 **802(d).**

14 Section 802(d) of the Trade Act of 1974, as added
15 by section 3(a) of this Act, shall apply to countries de-
16 scribed in paragraph (1)(B) of such section 802(d) with
17 respect to which for 3 consecutive years beginning on or
18 after January 1, 1995—

19 (1) the President—

20 (A) does not make a certification pursuant
21 to section 490(b)(1)(A) of the Foreign Assist-
22 ance Act of 1961; or

23 (B) grants a national interest waiver under
24 section 490(b)(1)(B) of such Act; or

25 (2) if the President makes such certification or
26 grants such waiver, the Congress enacts a joint reso-

1 lution under section 490(d) of such Act disapproving
2 the action of the President.