

104TH CONGRESS  
1ST SESSION

# S. 681

To provide for the imposition of sanctions against Colombia with respect to illegal drugs and drug trafficking.

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IN THE SENATE OF THE UNITED STATES

APRIL 5, 1995

Mr. HELMS (for himself and Mr. MACK) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To provide for the imposition of sanctions against Colombia with respect to illegal drugs and drug trafficking.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Narcotics National  
5 Emergency Sanctions Act of 1995”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Cocaine is the primary drug threat to the  
9 United States, and heroin poses an increasingly seri-  
10 ous drug threat to the United States.

1           (2) Colombia is the “corporate headquarters”  
2           for the international cartels responsible for the pro-  
3           duction and distribution of at least 80 percent of the  
4           cocaine that enters the United States.

5           (3) Colombia is the primary producer of heroin  
6           in the Western Hemisphere and is a significant cul-  
7           tivator of marijuana.

8           (4) Courageous and dedicated Colombians risk  
9           their lives every day in order to fight drug traffick-  
10          ers, and these Colombians deserve the support of the  
11          United States and of the Government of Colombia.

12          (5) The Government of Colombia did not take  
13          significant actions in 1994 to dismantle drug cartels  
14          in Colombia, capture drug kingpins, or reverse the  
15          influence of drug-related corruption on the political  
16          system of Colombia.

17          (6) The lack of achievement of the Government  
18          of Colombia in 1994 in its efforts against drugs  
19          raises significant questions as to whether the Colom-  
20          bian people presently receive the support of that gov-  
21          ernment in such efforts.

22          (7) The political and judicial systems of Colom-  
23          bia are plagued by drug-related corruption, including  
24          an ineffective plea-bargaining system that leaves

1 law-abiding citizens virtually unprotected against  
2 crime.

3 (8) The plea-bargaining system in Colombia is  
4 so ineffective that at least 33 percent of the convic-  
5 tions for drug-related crimes do not result in impris-  
6 onment.

7 (9) The Prosecutor General of Colombia has  
8 stated that the judicial process in Colombia system  
9 “results in virtual impunity [for drug traffickers]”.

10 (10) Colombia is a significant center for money-  
11 laundering activities, and, as a result, the financial  
12 system of Colombia is inundated with illegal monies.

13 (11) Despite repeated assurances it considers  
14 the war against drugs to be a “moral imperative”  
15 and a “matter of national security” requiring “an all  
16 out effort, without limits,” the Government of Co-  
17 lombia has failed to keep specific commitments made  
18 on July 15, 1994 by President-elect Samper that  
19 Colombia would—

20 (A) devote law enforcement resources, in-  
21 cluding creating an elite corps of investigators,  
22 to the investigation, apprehension, arrest, pros-  
23 ecution, and imprisonment of major drug traf-  
24 fickers and their accomplices, including political  
25 allies;

1 (B) rapidly reform the penal code of Co-  
2 lombia, including increasing penalties for drug  
3 traffickers, closing loopholes in the plea bargain  
4 system, and strengthening anti-corruption and  
5 money-laundering laws; and

6 (C) participate in the creation of an anti-  
7 narcotics force for Caribbean Basin countries  
8 and the implementation of a global export mon-  
9 itoring system for precursor chemicals.

10 (12) Evidence suggests that the influence of  
11 drug kingpins reaches the Congress of Colombia and  
12 the Office of the President of Colombia.

13 (13) The Government of Colombia has not  
14 taken any significant steps to investigate or pros-  
15 ecute cases of drug-related corruption, nor has that  
16 government undertaken a meaningful investigation  
17 into allegations that the campaign treasury of Presi-  
18 dent Samper received millions of dollars from the  
19 Cali cartel or into allegations of extensive corruption  
20 in the Congress of Colombia.

21 (14) The Government of Colombia has not dem-  
22 onstrated the political will to move against major  
23 drug traffickers in Colombia, and President Samper  
24 has not used his considerable public influence to  
25 build political support for direct, effective action

1       against drug kingpins and the scourge of drugs in  
2       Colombia.

3               (15) The Government of Colombia has not ar-  
4       rested or imprisoned any significant member of the  
5       Cali drug cartel, a cartel which accounts for at least  
6       80 percent of the cocaine that is shipped into the  
7       United States.

8               (16) Colombia has in effect laws to address  
9       drugs and drug-related corruption in a meaningful  
10      manner, but the Government of Colombia does not  
11      enforce such laws.

12              (17) The democratically-elected Government of  
13      Colombia is being subjugated to the interests of  
14      drug traffickers in Colombia.

15              (18) On February 6, 1995, the President of Co-  
16      lombia outlined a program of the Government of Co-  
17      lombia called the “Program of the War Against Il-  
18      licit Drugs”.

19              (19) In promising to pursue the program, the  
20      President of Colombia stated that Colombia “will  
21      continue fighting [narcotics] because we are con-  
22      vinced that the struggle against this serious scourge  
23      is a moral imperative, a response to a public health  
24      problem, and, most of all, an issue of national secu-  
25      rity.”

1 **SEC. 3. SANCTIONS.**

2 Subject to sections 4 and 6, the following sanctions  
3 shall apply against Colombia as of February 6, 1996:

4 (1) BILATERAL ASSISTANCE.—Funds available  
5 under the following programs of assistance may not  
6 be obligated or expended to provide assistance with  
7 respect to Colombia:

8 (A) DEVELOPMENT ASSISTANCE.—assist-  
9 ance to carry out chapter 1 of part I of the  
10 Foreign Assistance Act of 1961.

11 (B) ECONOMIC SUPPORT FUND ASSIST-  
12 ANCE.—Assistance to carry out chapter 4 of  
13 part II of the Foreign Assistance Act of 1961.

14 (C) FOREIGN MILITARY FINANCING.—Fi-  
15 nancing under section 23 of the Arms Export  
16 Control Act.

17 (D) IMET ASSISTANCE.—Assistance to  
18 carry out chapter 5 of part II of the Foreign  
19 Assistance Act of 1961.

20 (E) OVERSEAS PRIVATE INVESTMENT COR-  
21 PORATION.—Activities of the Overseas Private  
22 Investment Corporation under title IV of chap-  
23 ter 2 of part I of the Foreign Assistance Act of  
24 1961.

1 (F) EXPORT-IMPORT BANK.—Financing by  
2 the Export-Import Bank of the United States  
3 under the Export-Import Bank Act of 1945.

4 (2) MULTILATERAL DEVELOPMENT BANKS.—  
5 The Secretary of the Treasury shall instruct each  
6 United States executive director of a multilateral de-  
7 velopment bank to vote against any loan or other  
8 utilization of the funds of the respective bank to or  
9 for Colombia.

10 (3) LICENSES FOR COMMERCIAL ARMS EX-  
11 PORTS.—Appropriated funds may not be obligated  
12 or expended to license the commercial export of  
13 items on the United States Munitions List under  
14 section 38 of the Arms Export Control Act to Co-  
15 lombia.

16 (4) MILITARY ACTIVITIES.—Appropriated funds  
17 may not be obligated or expended for purposes of  
18 carrying out military activities in Colombia or that  
19 benefit Colombia, including joint military activities  
20 involving the Armed Forces of the United States and  
21 the Armed Forces of Colombia.

22 (5) TRADE PREFERENCES.—

23 (A) ANDEAN TRADE PREFERENCE ACT.—  
24 The President shall withdraw the designation of  
25 Colombia as a beneficiary country under section

1           203 of the Andean Trade Preference Act (19  
2           U.S.C. 3202). The President shall make such  
3           withdrawal without regard to the procedures set  
4           forth in subsection (e) of that section. Such  
5           withdrawal shall apply to goods entered, or  
6           withdrawn from warehouse for consumption,  
7           after the date that is 45 days after the date  
8           sanctions under this section first apply to Co-  
9           lombia and such goods shall be subject to duty  
10          at the rates of duty specified for such goods  
11          under the general subcolumn of column 1 of the  
12          Harmonized Tariff Schedule of the United  
13          States.

14                 (B) TRADE ACT OF 1974.—The President  
15          shall terminate the designation of Colombia as  
16          a beneficiary developing country under section  
17          502 of the Trade Act of 1974 (19 U.S.C.  
18          2462). The President shall terminate such des-  
19          ignation without regard to the procedures set  
20          forth in subsection (a)(2) of that section. Such  
21          withdrawal shall apply to goods entered, or  
22          withdrawn from warehouse for consumption,  
23          after the date that is 45 days after the date  
24          sanctions under this section first apply to Co-  
25          lombia and such goods shall be subject to duty



1 at the rates of duty specified for such goods  
2 under the general subcolumn of column 1 of the  
3 Harmonized Tariff Schedule of the United  
4 States.

5 (C) OTHER TRADE PREFERENCE PRO-  
6 GRAMS.—Colombia may not be designated as el-  
7 igible to receive preferential trade treatment  
8 under any other program.

9 (D) FREE TRADE AGREEMENTS.—Colom-  
10 bia shall not be—

11 (i) extended tariff or quota treatment  
12 equivalent to that accorded to members of  
13 the North American Free Trade Agree-  
14 ment; or

15 (ii) allowed to participate in the dis-  
16 cussion or implementation of a free trade  
17 agreement involving Western Hemisphere  
18 countries.

19 (E) SUPERSEDING EXISTING LAW.—The  
20 sanctions described in this paragraph shall  
21 apply notwithstanding any other provision of  
22 law.

23 (6) EXCLUSION FROM ENTRY INTO UNITED  
24 STATES.—

1 (A) IN GENERAL.—The President shall  
2 take all reasonable steps provided by law to en-  
3 sure that public officials in Colombia, regard-  
4 less of rank, who are implicated in drug-related  
5 corruption, their immediate relatives, and busi-  
6 ness partners are not permitted entry into the  
7 United States, consistent with the provisions of  
8 the Immigration and Nationality Act (8 U.S.C.  
9 1101 et seq.).

10 (B) APPLICABILITY.—Subparagraph (A)  
11 shall apply in the case of a public official in Co-  
12 lombia, and the relatives and business partners  
13 of such official, until the completion by the  
14 Government of Colombia of an investigation  
15 into the drug-related corruption of the official  
16 that is satisfactory to the Secretary of State  
17 and the Attorney General of the United States  
18 and is so certified to the President.

19 **SEC. 4. DETERMINATION AND CERTIFICATION.**

20 (a) CERTIFICATION PROCEDURES FOR INITIAL PE-  
21 RIOD.—Subject to section 7(a)(1), the sanctions described  
22 in section 3 shall not apply to Colombia during the period  
23 beginning February 6, 1996, and ending February 5,  
24 1997, if the President determines and certifies to the ap-

1 appropriate congressional committees on February 6, 1996,  
2 the matters set forth in subsection (b).

3 (b) DETERMINATION.—The determination referred to  
4 in subsection (a)(1) is the following:

5 (1) That the Government of Colombia has made  
6 substantial progress in the following matters:

7 (A) Investigating contributions by drug  
8 traffickers to political parties in Colombia.

9 (B) Providing funding for a sustainable al-  
10 ternative development program to encourage  
11 Colombia farmers to grow legal crops.

12 (C) Utilizing the law enforcement re-  
13 sources of Colombia to investigate, capture,  
14 convict, and imprison major drug lords in Co-  
15 lombia and their accomplices.

16 (D) Implementing and funding fully a pro-  
17 posed plan for the improvement of the adminis-  
18 tration of the Ministry of Justice of Colombia.

19 (E) Acting effectively to confiscate profits  
20 from activities relating to illegal drugs.

21 (F) Enacting legislation to implement the  
22 United Nations Convention Against Illicit Traf-  
23 fic in Narcotic Drugs and Psychotropic Sub-  
24 stances.

1 (G) Dismantling the infrastructure in Co-  
2 lombia that is used for processing illegal drugs,  
3 interdicting the chemicals used for such proc-  
4 essing, and seizing or disabling vehicles (includ-  
5 ing airplanes and ships) used to transport proc-  
6 essed illegal drugs.

7 (H) Investing in technology to improve  
8 surveillance of airports, waterways, and sea-  
9 ports in Colombia.

10 (I) Constructing an installation for the Co-  
11 lombia Coast Guard on San Andres Island, Co-  
12 lombia, in order to provide effective surveillance  
13 of airplane and ship traffic that departs from  
14 the island.

15 (J) Improving the aircraft detection and  
16 interception systems of Colombia, including the  
17 purchase of aircraft detectors.

18 (K) Encouraging and participating in the  
19 adoption of an Inter-American convention to  
20 ban the establishment of a financial safe haven  
21 in any country in the Western Hemisphere.

22 (2) That the Government of Colombia has ac-  
23 complished the following:

24 (A) The reform of the penal code of Co-  
25 lombia in order to increase penalties for drug

1 traffickers and to remove opportunities for such  
2 traffickers to enter into plea bargains.

3 (B) The creation of an effective investiga-  
4 tion unit to detect and bring to prosecution in-  
5 dividuals in Colombia who engage in corrupt ac-  
6 tivities related to drugs.

7 (C) The enactment of legislation to imple-  
8 ment the statute prohibiting money laundering  
9 that was enacted by the Colombia legislature in  
10 1994.

11 (D) The destruction of 44,000 hectares of  
12 coca and poppy plants in Colombia by January  
13 1, 1996.

14 (c) CERTIFICATION PROCEDURES FOR SUBSEQUENT  
15 PERIOD.—Subject to section 7(a)(1), the sanctions de-  
16 scribed in section 3 shall not apply to Colombia, and any  
17 trade designations withdrawn or terminated under section  
18 3(5) shall be reinstated with respect to Colombia, if the  
19 President determines and certifies to the appropriate con-  
20 gressional committees on February 6, 1997, the matters  
21 set forth in subsection 6(b).

22 **SEC. 5. DISCRETIONARY SANCTIONS.**

23 (a) AUTHORITY.—The President may impose on Co-  
24 lombia the sanctions described in section 4, or such other  
25 sanctions as the President considers appropriate, if the

1 President determines that the Government of Colombia is  
2 not cooperating with the United States in counter-drug  
3 activities in and with respect to Colombia.

4 (b) REQUIREMENTS FOR IMPOSITION.—The Presi-  
5 dent shall impose sanctions under this section by transmit-  
6 ting to the appropriate congressional committees a notice  
7 of the imposition of the sanctions. The notice shall set  
8 forth the sanctions imposed and the effective date of the  
9 sanctions.

10 (c) TERMINATION OF SANCTIONS.—(1) Subject to  
11 section 7(a)(2), sanctions imposed under this section shall  
12 terminate 45 days after the date on which the President  
13 transmits to the appropriate congressional committees the  
14 determination and certification referred to in section 6(a).

15 (2) Upon the termination of sanctions under this sec-  
16 tion, any trade designation withdrawn or terminated  
17 under section 3(5) shall be reinstated with respect to Co-  
18 lombia.

19 (d) EXPIRATION OF AUTHORITY.—The authority of  
20 the President to impose sanctions under this section shall  
21 expire on February 5, 1996.

22 **SEC. 6. TERMINATION OF SANCTIONS.**

23 (a) IN GENERAL.—(1) Subject to subsection (c) and  
24 section 7(a)(2), the sanctions described in section 3 shall  
25 terminate 45 days after the date on which the President

1 determines and certifies to the appropriate congressional  
2 committees the matters set forth in subsection (b).

3 (2) Upon the termination of sanctions under this sub-  
4 section, any trade designation withdrawn or terminated  
5 under section 3(5) shall be reinstated with respect to Co-  
6 lombia.

7 (b) DETERMINATION.—The determination referred to  
8 in subsection (a)(1) is the following:

9 (1) That the Government of Colombia continues  
10 to make substantial progress with respect to the fol-  
11 lowing matters:

12 (A) Investigating contributions by drug  
13 traffickers to political parties in Colombia.

14 (B) Prosecuting the persons responsible  
15 for illegal contributions to political parties and  
16 campaigns.

17 (C) Providing funding for a sustainable al-  
18 ternative development program to encourage  
19 Colombia farmers to grow legal crops.

20 (D) Utilizing the law enforcement re-  
21 sources of Colombia to investigate, capture,  
22 convict, and imprison major drug lords in Co-  
23 lombia and their accomplices.

24 (E) Implementing a reform of the penal  
25 code of Colombia so as to punish and incarcer-

1           ate drug traffickers and to terminate the avail-  
2           ability of lenient plea bargains.

3           (F) Deploying an effective investigation  
4           unit to detect and bring to prosecution individ-  
5           uals in Colombia who engage in corrupt activi-  
6           ties related to drugs.

7           (G) Implementing and funding fully a pro-  
8           posed plan for the improvement of the adminis-  
9           tration of the Ministry of Justice of Colombia.

10          (H) Acting effectively to confiscate profits  
11          from activities relating to illegal drugs.

12          (I) Enforcing effectively the statute prohib-  
13          iting money laundering that was enacted by the  
14          Colombia legislature in 1994.

15          (J) Investing in technology to improve sur-  
16          veillance of airports, waterways, and seaports in  
17          Colombia and utilizing such technology.

18          (K) Improving the aircraft detection and  
19          interception systems of Colombia and utilizing  
20          such systems.

21          (L) Encouraging and participating in the  
22          adoption of an Inter-American convention to  
23          ban the establishment of a financial safe haven  
24          in any country in the Western Hemisphere.



1           (2) That the Government of Colombia has ac-  
2           complished the following:

3                   (A) The enactment of legislation to imple-  
4                   ment the United Nations Convention Against  
5                   Illicit Traffic in Narcotic Drugs and Psycho-  
6                   tropic Substances.

7                   (B) The destruction of all remaining hec-  
8                   tares of illicit crops in Colombia.

9                   (C) The construction of an installation for  
10                  the Colombia Coast Guard on San Andres Is-  
11                  land, Colombia, and in order to provide effective  
12                  surveillance of airplane and ship traffic that de-  
13                  parts from the island.

14           (c) DATE OF TRANSMITTAL.—The President shall  
15           transmit the determination and certification described in  
16           this section, if at all, not earlier than February 6, 1997.

17   **SEC. 7. CONGRESSIONAL REVIEW.**

18           (a) IN GENERAL.—

19                   (1) REVIEW OF APPLICABILITY.—The sanctions  
20                   described in section 3 shall apply to Colombia not-  
21                   withstanding a determination of the President under  
22                   subsection (a) or (c) of section 4 if, within 45 days  
23                   after receipt of a certification under such subsection  
24                   (a) or (c), respectively, Congress enacts a joint reso-  
25                   lution disapproving the determination contained in

1 such certification. The effective date of such sanc-  
2 tions shall be the date on which Congress enacts a  
3 joint resolution disapproving the determination con-  
4 cerned.

5 (2) REVIEW OF TERMINATION.—The sanctions  
6 described in section 3, and the sanctions authorized  
7 by section 5, shall not terminate notwithstanding a  
8 determination of the President under section 6(a) or  
9 5(c), respectively, if, within 45 days after receipt of  
10 a certification under such section 6(a) or 5(c), re-  
11 spectively, Congress enacts a joint resolution dis-  
12 approving the determination contained in such cer-  
13 tification.

14 (b) PROCEDURES.—The procedures for the consider-  
15 ation of a joint resolution disapproving a determination  
16 under this section shall be governed by the procedures set  
17 forth in section 490A(f)(2) of the Foreign Assistance Act  
18 of 1961 (22 U.S.C. 2291k(f)(2)).

19 **SEC. 8. RELATIONSHIP TO OTHER CERTIFICATION RE-**  
20 **QUIREMENTS WITH RESPECT TO COLOMBIA.**

21 In fiscal year 1996 and in any other fiscal year in  
22 which sanctions are imposed on Colombia under this Act,  
23 the President shall transmit the applicable determination  
24 and certification under this Act in lieu of the determina-  
25 tion and certification, if any, required with respect to Co-

1 lombia in such fiscal year under section 490A of the For-  
2 eign Assistance Act of 1961 (22 U.S.C. 2291k).

3 **SEC. 9. REPORTS.**

4 (a) REQUIREMENT.—Subject to subsection (b), the  
5 Secretary of State shall submit to the appropriate congres-  
6 sional committees a report on—

7 (1) the progress made by the Government of  
8 Colombia in the matters set forth in paragraph (1)  
9 of section 4(b); and

10 (2) the accomplishments of that government  
11 with respect to the matters set forth in paragraph  
12 (2) of that section.

13 (b) DATES OF SUBMITTAL.—The Secretary shall sub-  
14 mit a report under this subsection not later than—

15 (1) September 1, 1995; and

16 (2) September 1 of each year thereafter until  
17 the year following the year in which sanctions, if  
18 any, on Colombia under this Act terminate.

19 **SEC. 10. DEFINITIONS.**

20 As used in this Act:

21 (1) APPROPRIATE COMMITTEES OF CON-  
22 GRESS.—The term “appropriate committees of Con-  
23 gress” means the Committee on Foreign Relations  
24 of the Senate and the Committee on International  
25 Relations of the House of Representatives.

1           (2) DRUG.—The term “drug” refers to any  
2 substance that, if subject to the jurisdiction of the  
3 United States, would be a controlled substance with-  
4 in the meaning of section 102(6) of the Controlled  
5 Substances Act (21 U.S.C. 802(6)).

6           (3) DRUG TRAFFICKER.—The term “drug traf-  
7 ficker” means any person who transports, transfers,  
8 or otherwise disposes of illegal drugs, to another, as  
9 consideration for anything of value, or makes or ob-  
10 tains control of illegal drugs with the intent to so  
11 transport, transfer, or dispose of.

12           (4) MULTILATERAL DEVELOPMENT BANKS.—  
13 The term “multilateral development banks” includes  
14 the International Bank for Reconstruction and De-  
15 velopment, the International Development Associa-  
16 tion, and the Inter-American Development Bank.

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