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SUMMARY

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The U.S. "Majors List" of Illicit Drug-Producing and Drug-Transit Countries

As defined in the Foreign Assistance Act of 1961, the terms "major illicit drug-producing country" and "major drug-transit country" refer to countries where illicit drugs—especially illicit crops of opium poppy, coca bush, and cannabis destined for the United States—are produced or trafficked. Each year, the President identifies which countries meet the statutory criteria for being listed as major illicit drug-producing and drug-transit countries and determines which countries on the so-called "majors list" will not receive U.S. assistance.

Identifying Major List Countries

The origins of the process for identifying countries on the majors list and conditioning U.S. assistance on counternarcotics commitments can be traced to 1986. The process has changed over time, including significant modifications in 2002 and 2006.

In September 2020, President Donald J. Trump identified 22 countries on the majors list for FY2021:

Afghanistan	Costa Rica	Honduras	Pakistan
The Bahamas	Dominican Republic	India	Panama
Belize	Ecuador	Jamaica	Peru
Bolivia	El Salvador	Laos	Venezuela
Burma	Guatemala	Mexico	
Colombia	Haiti	Nicaragua	

President Trump also determined that two of these countries (Bolivia and Venezuela) "failed demonstrably" to uphold their counternarcotics commitments. Invoking his authority to grant aid restrictions waivers for U.S. national interest reasons, President Trump authorized the continuation of assistance for "programs that support the legitimate interim government in Venezuela and the Bolivian government."

Applying U.S. Assistance Consequences

Certain categories of U.S. assistance may be withheld from majors list countries that do not adhere to bilateral and international commitments on drug control policy measures (see the **table** below). In addition, majors list countries may be disqualified from eligibility to receive trade-related benefits, transfers of forfeited property, and U.S. support for new or extended multilateral development bank loans. Conversely, countries on the majors list that are not subject to aid restrictions may qualify for additional U.S. support in the form of additionally authorized U.S. assistance for counternarcotics purposes.

U.S. Assistance Potentially Restricted from Majors List Countries
• most forms of bilateral assistance authorized in the Foreign Assistance Act of 1961 (other than emergency, humanitarian, and counternarcotics assistance)
• arms sales and financing under the Arms Export Control Act
• certain provisions of agricultural commodities
• Export-Import Bank financing

Congressional Attention to the Majors List

Although the President's annual determinations on the world's major illicit drug-producing and drug-transit countries were once central to a dynamic policymaking process that captured the attention of many in Congress and the international community, the current majors list has remained unchanged since 2011. The seemingly static nature of recent majors list designations amid an increasingly complex and thriving illicit drug trade, coupled with long-standing debate over the value of the policy, has driven some in Congress to question whether the current process remains relevant.

Recent efforts in Congress to amend aspects of the annual determinations process include the Blocking Deadly Fentanyl Imports Act (S. 3255) in the 114th Congress, a version of which was incorporated in the 116th Congress into the Senate-

passed version of the National Defense Authorization Act for FY2021 (Section 6284 of S. 4049), as well as the FENTANYL Results Act in the 116th Congress (H.R. 7990, which passed the House, and S. 4514). However, no recent legislation related to the majors list has been enacted.

In its December 2020 final report, the Western Hemisphere Drug Policy Commission, an entity established by the Department of State Authorities Act, Fiscal Year 2017 (P.L. 114-323, as amended), recommended eliminating the majors list. The commission's proposal may drive further congressional consideration of foreign policy options to address countries involved in the production and trafficking of illicit drugs.

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Introduction

For nearly four decades, the statutory process for identifying the world's major illicit drug-producing and drug-transit countries has shaped how the United States engages foreign governments on illicit drug control matters. Congress defined the terms "major illicit drug producing country" and "major drug-transit country" in the Foreign Assistance Act of 1961 (hereafter "FAA"). The President is required to annually identify which countries fit the statutory criteria to be listed as so-called "majors list" countries and to determine if any among them should not be eligible for U.S. assistance.

The current annual process for developing the majors list originated in 1986, when Congress first established certification procedures for the President to determine the eligibility of illicit drug-producing countries to receive U.S. assistance. Despite some changes over time, including significant modifications in 2002 and 2006, some in Congress have questioned whether the current process remains relevant.[1]

Although the President's annual determinations were once central to a dynamic policymaking process that captured the attention of many in Congress and the international community, the 22 countries currently identified as drug producers or traffickers have remained unchanged since 2011. In 2020, then-President Donald J. Trump identified two countries as having "failed demonstrably" to uphold their counternarcotics commitments: Bolivia and Venezuela. Both have been described in this way for more than a decade (Bolivia since 2008 and Venezuela since 2005).

The seemingly static nature of recent majors list designations and determinations stands in contrast to the widely held view among drug policy experts that the world's illicit drug markets for both plant-derived and synthetic drugs appear to be thriving and evolving. Particularly in light of the ongoing opioid epidemic in the United States, key issues for Congress may include oversight of the Biden Administration's approach to counternarcotics policy toward countries on the majors list and consideration of modifying current law governing the certification process of such countries.

This report provides an overview of the legislative origins of the majors list process, background on how the process has evolved, and policy perspectives for congressional consideration.

Legislative Background

In 1972, amid growing concern over foreign-sourced illicit drugs consumed in the United States, Congress added a new chapter to the FAA entitled "International Narcotics Control."[2] The provision authorized the President to negotiate counternarcotics agreements with, and furnish counternarcotics assistance to, foreign countries. It also tied provisions of U.S. economic and military assistance, including arms sales, to U.S. counternarcotics policy objectives. According to Section 481 of the International Narcotics Control chapter in the FAA, such assistance could be suspended if the President identified a foreign country as having "failed to take adequate steps" to combat the production or transit of illicit drugs destined for the United States. Over the next

[1] House Foreign Affairs Committee hearing on "The Western Hemisphere Drug Policy Commission: Charting a New Path Forward," December 3, 2020; and "U.S. Drug Certification is Outdated, Says Report," Associated Press, December 1, 2020.

[2] Section 109 of the Foreign Assistance Act of 1971 (P.L. 92-226) added the new Chapter 8.

dozen years, Congress added to and amended provisions in Section 481 of the FAA, including introducing the term "major illicit drug producing country" in 1983.

The Anti-Drug Abuse Act of 1986 (P.L. 99-570) significantly altered the dynamic of international drug control policymaking. Up until 1986, Section 481 of the FAA charged the President with the responsibility of determining whether a country would be denied U.S. assistance for failing to take adequate steps on narcotics control matters. Congress, however, reportedly became frustrated with the executive branch's perceived reluctance to invoke Section 481 of the FAA.[3]

In addition to declaring that "drugs are a national security problem"[4] and introducing the term "major drug-transit country," among other provisions, the Anti-Drug Abuse Act of 1986 established that 50% of U.S. assistance would be suspended to countries on the majors list *until* the President either (1) determined that an exception was warranted for "vital national interests of the United States" or (2) "certified" that one or more designated countries had "cooperated fully with the United States" or "taken adequate steps on its own" to prevent illicit drugs from reaching the United States and address drug-related money laundering.[5] Until certified, U.S. executive directors to multilateral development banks were required to oppose new loans or loan extensions to majors list countries. Further, the act tied counternarcotics efforts to U.S. trade policy.[6] (See the section below on "Restricting U.S. Support on Counternarcotics Grounds.")

President Ronald Reagan issued the first presidential determination pursuant to Section 481 of the FAA, as amended by the International Narcotics Control Act of 1986, on February 28, 1987.

The late 1980s and the 1990s were marked by extensive congressional oversight of international drug control policy, including multiple hearings exclusively on the President's annual determinations and certifications of countries on the majors list. During this period, further amendments and revisions were made to the certification process and Congress eventually moved the statutory provisions on certification to Section 490 of the FAA.[7] During this period, Congress authorized various forms of U.S. support specifically to countries on the majors list, including certain types of military assistance, multilateral development bank assistance, and debt reduction and forgiveness opportunities. (See the section below on "Providing U.S. Assistance for Counternarcotics Purposes.")

Since the 1986 establishment of the certification process for countries on the majors list, the policy has generated significant debate. Supporters have endorsed the process as an "effective diplomatic instrument" that enforces international drug control commitments and holds foreign governments "publicly responsible for their actions before their international peers."[8] Others, including most recently the Western Hemisphere Drug Policy Commission, an entity established

[3] As described by Senator Lincoln Chafee at a Senate Foreign Relations Committee hearing in 2001: "Until the mid-1980's, the U.S. Government's linking of anti-drug policy to foreign policy largely involved little more than the granting of discretionary authority to the executive branch. Congress became frustrated with the State Department's unwillingness to confront governments of foreign countries that were major sources and conduits of illegal narcotics." U.S. Congress, Senate Committee on Foreign Relations, *Review of the Anti-Drug Certification Process*, 107th Cong., 1st sess., March 1, 2001, S.Hrg. 107-18 (Washington: GPO, 2001), p. 1.

[4] Section 2019 of the International Narcotics Control Act of 1986, Title II of P.L. 99-570.

[5] Section 2005 of the International Narcotics Control Act of 1986, Title II of P.L. 99-570.

[6] Section 9001 of the Narcotics Control Trade Act, Title IX of P.L. 99-570.

[7] Section 5(a) of International Narcotics Control Act of 1992 (P.L. 102-583) added Section 490 to the FAA (22 U.S.C. 2291j).

[8] See, for example, U.S. Department of State, *1996 International Narcotics Control Strategy Report* (hereafter "INCSR"), vol. 1, March 1997.

by Congress to review U.S. counternarcotics policy in Latin America, have argued that the policy "offends our partners and does little to deter corrupt practices in unfriendly nations."[9]

Responding to international opposition to certification, Congress introduced an alternative to the certification process beginning in 2002. Section 591 of the Kenneth H. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 (P.L. 107-115), provided for a one-year suspension of the existing drug certification provisions. Instead, the act required the President to identify majors list countries that had "failed demonstrably" to make substantial efforts to combat illicit drugs and limited assistance to those countries, unless the assistance provided to them was vital to U.S. national interests.

Subsequently, Section 706 of the Department of State Authorization Act, Fiscal Year 2003 (Division A, P.L. 107-228; 22 U.S.C. 2291j-1) extended the revised designation process to remain in effect beyond FY2002. The change in standards from whether a country had "cooperated fully" to whether it had "failed demonstrably" has been described as effectively shifting the "burden of proof to an assumption that foreign nations were cooperating with the United States and had to be proved otherwise to trigger the restrictions" in foreign assistance.[10]

In response to U.S. concerns about the use of methamphetamine, a synthetic drug, Congress amended the majors list certification process in the Combat Methamphetamine Epidemic Act of 2005 (Title VII of P.L. 109-177). Section 722 of that act amended the FAA to require the President to apply the pre-2002 annual majors list certification procedures, pursuant to Section 490 of the FAA, to the top five exporters and importers of methamphetamine precursors—even in years when the President invokes Section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003, to make the annual determinations for major illicit drug-producing and drug-transit countries.[11]

Recent efforts in Congress to amend aspects of the annual determinations process include the Blocking Deadly Fentanyl Imports Act (S. 3255) in the 114th Congress, a version of which was incorporated in the 116th Congress into the Senate-passed version of the National Defense Authorization Act for FY2021 (Section 6284 of S. 4049), as well as the FENTANYL Results Act in the 116th Congress (H.R. 7990, which passed the House, and S. 4514). However, no recent legislation related to the majors list has been enacted.

Defining Countries on the Majors List

The composition of the majors list is determined by the President each year, based on whether countries meet the statutory criteria for being major illicit drug-producing or drug-transit

[9] Western Hemisphere Drug Policy Commission, *Charting a New Path Forward*, December 2020, p. 3. The Department of State Authorities Act, Fiscal Year 2017 (P.L. 114-323, as amended), established the Western Hemisphere Drug Policy Commission. The act charged the commission with conducting a "comprehensive review of United States foreign policy in the Western Hemisphere to reduce the illicit drug supply and drug abuse and reduce the damage associated with illicit drug markets and trafficking." The act further directed the commission to prepare a public report on its recommendations, findings, and conclusions.

[10] U.S. Congress, House Committee on Government Reform, *Office of National Drug Control Policy Reauthorization Act of 2003*, report together with additional views to accompany H.R. 2086, 108th Cong., 1st sess., June 19, 2003, H.Rept. 108-167 (Washington: GPO, 2003), p. 18.

[11] For countries not certified, Section 722(d) of the Combat Methamphetamine Epidemic Act of 2005 (22 U.S.C. 2291h note) also tasked the Secretary of State and Attorney General to devise a "comprehensive plan to address the diversion of … chemicals … to the illicit production of methamphetamine … including the establishment, expansion, and enhancement of regulatory, law enforcement, and other investigative efforts to prevent such diversion."

countries. In the FAA, the term "major illicit drug-producing country" refers to countries where illicit crops of opium poppy, coca bush, or cannabis are grown. The term "major drug-transit country" describes countries that produce illicit drugs destined for the United States, as well as those through which such substances are trafficked.[12]

Pursuant to Section 481(e)(2) of the FAA, the term "major illicit drug-producing country" is defined, for the purpose of international narcotics-related provisions in the FAA, as a country in which

> (A) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year;
>
> (B) 1,000 hectares or more of illicit coca is cultivated or harvested during a year; or
>
> (C) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President determines that such illicit cannabis production does not significantly affect the United States.

Pursuant to Section 481(e)(5) of the FAA, the term "major drug-transit country" is defined, for the purpose of international narcotics-related provisions in the FAA, as a country

> (A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; or
>
> (B) through which are transported such drugs or substances.

Countries on the Majors List for FY2021

Based on the criteria for defining major illicit drug-producing and drug-transit countries in the FAA, President Trump identified on September 16, 2020, 22 countries that meet the criteria to be major illicit drug-producing or drug-transit countries:

> Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela.

The annual majors list has not changed since September 15, 2011. Geographically, the list includes countries concentrated in the Western Hemisphere and Asia.

Describing Countries on the Majors List

Section 489 of the FAA (22 U.S.C. 2291h) requires the President to prepare an annual report, due March 1, with information on the current countries on the majors list, other countries that receive U.S. counternarcotics assistance, and related counternarcotics topics.[13] The U.S. Department of State's Bureau for International Narcotics and Law Enforcement Affairs produces the *International Narcotics Control Strategy Report* (INCSR) in two volumes, with contributions from U.S. missions overseas and interagency partners. Each INCSR contains detailed country or

[12] Separately, Section 805 of the Narcotics Control Act (Title VIII of P.L. 93-618, as added by Title IX of P.L. 99-570 and subsequently amended; 19 U.S.C. 2495) provided different definitions for the terms "major drug-producing country" and "major drug-transit country" that are applicable in certain trade-related policy contexts. See section on "Trade-Related Certifications."

[13] Section 2214 of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999 (Division G., Subdivision B, Title XXII of P.L. 105-77; 22 U.S.C. 2656i), further required the Secretary of State to update and submit annually to Congress a "comprehensive, long-term strategy" to carry out the Department's counternarcotics responsibilities consistent with the *National Drug Control Strategy* prepared by the White House's Office of National Drug Control Policy. Section 2214 also specified that the update should be consistent with "the recommendations of the Department regarding certification determinations made by the President on March 1 … of each major illicit drug producing and drug trafficking country …."

regional narratives and foreign assistance information, including narratives for each country on the majors list.

Additional Country Lists in the 2020 INCSR

In addition to requiring a list of major illicit drug-producing and drug-transit countries, as determined by the President, Section 489 of the FAA requires the INCSR to include three additional country lists:

- a list of countries that are "major sources of precursor chemicals used in the production of illicit narcotics,"
- a list of "major money laundering countries," and
- a list of the top five exporters and importers of pseudoephedrine, ephedrine, and phenylpropanolamine (pseudoephedrine and ephedrine were common precursors used in the production of U.S.-seized methamphetamine and phenylpropanolamine can be used as an amphetamine precursor).

While the first two country lists are not associated with any further conditions or limitations on U.S. assistance, the latter requires annual certifications (see the section below on "Methamphetamine-Related Certifications"). The current lists are published annually in the State Department's INCSR.[14]

In 2020, the INCSR identified 39 major precursor chemical source countries and jurisdictions:

> Afghanistan, Argentina, Bangladesh, Belgium, Belize, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Dominican Republic, Ecuador, Egypt, El Salvador, Germany, Guatemala, Honduras, Hong Kong, India, Indonesia, Japan, Mexico, the Netherlands, Nigeria, Pakistan, Peru, Poland, Republic of Korea, Russia, Singapore, South Africa, Switzerland, Taiwan, Thailand, the United Arab Emirates, and the United Kingdom.

The 2020 INCSR also identified 81 major money laundering countries and jurisdictions (defined, pursuant to Section 481 of the FAA, as countries "whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking"):

> Afghanistan, Albania, Algeria, Antigua and Barbuda, Argentina, Armenia, Aruba, Azerbaijan, Bahamas, Barbados, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Brazil, British Virgin Islands, Burma, Cabo Verde, Canada, Cayman Islands, China, Colombia, Costa Rica, Cuba, Curaçao, Cyprus, Dominica, Dominican Republic, Ecuador, El Salvador, Georgia, Ghana, Guatemala, Guyana, Haiti, Honduras, Hong Kong, India, Indonesia, Iran, Italy, Jamaica, Kazakhstan, Kenya, Kyrgyz Republic, Laos, Liberia, Macau, Malaysia, Mexico, Morocco, Mozambique, Netherlands, Nicaragua, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Russia, Senegal, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Maarten Spain, Suriname, Tajikistan, Tanzania, Thailand, Trinidad and Tobago, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uzbekistan, Venezuela, and Vietnam.

Cultivation Estimates

Among other requirements, the INCSR publishes U.S. government estimates on illicit drug cultivation for opium poppy, coca bush, and cannabis, as well as illicit production of opium, heroin, and cocaine. In the 2020 edition of the INCSR, these estimates identified 8 out of the 22 current countries on the majors list as global cultivators or producers of at least one of these illicit substances (U.S. cultivation estimates for the most recent year available in parentheses):[15]

[14] U.S. Department of State, *International Narcotics Control Strategy Report* (INCSR), vol. 1, 2020, pp. 5-6.

[15] Unless otherwise noted, most recent cultivation estimates are based on published data in the State Department's 2020 INCSR, vol. 1, p. 22. Using a different methodology, the United Nations Office on Drugs and Crime (UNODC) publishes separate cultivation data. See UNODC, *World Drug Report*, booklet 3, 2020, pp. 75-90.

- **Opium Poppy:** Afghanistan (160,000 hectares in 2019), Burma (44,800 hectares in 2016), Mexico (30,400 hectares in 2019), Laos (4,200 hectares in 2016), and Pakistan (1,400 hectares in 2016).[16]
- **Coca Bush:** Colombia (212,000 hectares in 2019), Peru (72,000 hectares in 2019), and Bolivia (42,180 hectares in 2019).[17]
- **Cannabis:** Mexico (11,500 hectares in 2016).

Providing U.S. Assistance for Counternarcotics Purposes

Pursuant to Section 481(a)(1) of the FAA, assistance provided to countries on the majors list is a key U.S. policy tool to prevent and suppress international criminal activities, including "international narcotics trafficking, money laundering, and corruption." To this end, Congress authorizes several forms of assistance to foreign countries for counternarcotics purposes.[18] Such assistance, including alternative development assistance,[19] is not subject to aid restrictions associated with the majors list designation and certification processes. See **Table 1** below for recent State Department counternarcotics funding.

In addition to counternarcotics assistance, Congress enacted several provisions that refer specifically to countries on the majors list as the beneficiaries of additional U.S. support, including

- transfers of excess defense articles,[20]
- food-related assistance,[21]

[16] For Mexico, see Office of National Drug Control Policy, "White House Office of National Drug Control Policy (ONDCP) Announces Record Reduction in Poppy Cultivation and Potential Heroin Production in Mexico," press release, July 31, 2020. As reported in the State Department's 2020 INCSR, two countries fall below the 1,000-hectare threshold for opium poppy cultivation: Colombia (663 hectares in 2018) and Guatemala (187 hectares in 2018).

[17] ONDCP, "United States and Colombian Officials Set Bilateral Agenda to Reduce Cocaine Supply," press release, March 5, 2020; "ONDCP Releases Data on Coca Cultivation and Production in Peru," press release, July 31, 2020; and "ONDCP Releases Data on Coca Cultivation and Cocaine Production in Bolivia," press release, November 13, 2020.

[18] Section 481(a)(4) of the FAA (22 U.S.C. 2291(a)(4)) authorized the President, notwithstanding any other provision of law, "to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances, or for other anticrime purposes." Programs pursuant to Section 481 of the FAA are funded through Department of State, Foreign Operations, and Related Programs appropriations as international security assistance under the heading "International Narcotics Control and Law Enforcement" (INCLE).

[19] Section 126 of the FAA (22 U.S.C. 2151x) required, in countries where illicit narcotics cultivation occurs, "priority consideration to programs which would help reduce illicit narcotics cultivation by stimulating broader development opportunities." Programs pursuant to Section 126 of the FAA, which include crop substitution, alternative development, and alternative livelihoods programming, are funded through Department of State, Foreign Operations, and Related Programs appropriations as bilateral economic assistance under the headings "Development Assistance" (DA) and "Economic Support Fund" (ESF).

[20] Section 573 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (22 U.S.C. 2321j note), authorized the President to transfer excess defense articles (EDA) to "a major illicit drug producing country," particularly those located in Latin America and the Caribbean.

[21] Section 414 of Agricultural Trade Development and Assistance Act of 1954 (title IV of Ch. 469, as added by P.L. 101-624; 7 U.S.C. 1736g-1) authorized the President to provide additional food-related assistance to a country that is also a "major illicit drug producing country" for the purpose of reducing such country's economic dependence on drug crops.

- counternarcotics assistance through multilateral development banks,[22] and
- prioritization of updating extradition treaties.[23]

Other provisions link U.S. support for multilateral bank debt reduction[24] and U.S. debt forgiveness to countries' achievements in reducing drug trafficking.[25] The President also retains special authority to draw down articles and services from U.S. government inventories and resources, as well as provide Defense Department military education and training for counternarcotics purposes.[26]

Table 1. State Department Counternarcotics Assistance, FY2015-FY2019

in current U.S. $ thousands

	FY2015 actual	FY2016 actual	FY2017 actual	FY2018 actual	FY2019 actual
Africa	**330**	**400**	**1,300**	**1,000**	**1,000**
Liberia	330	400	1,300	1,000	1,000
East Asia and Pacific	**2,625**	**5,325**	**3,555**	**4,200**	**2,700**
Burma	800	1,300	1,050	1,100	1,300
China	—	—	—	1,200	—
Indonesia	475	475	455	400	400
Laos	250	250	—	—	500

[22] Section 2018 of the International Narcotics Control Act of 1986 (Title II of P.L. 99-570; 22 U.S.C. 2291 note) directed the Secretary of the Treasury to instruct U.S. Executive Directors of multilateral development banks to support assistance programs in "each major illicit drug producing country" on drug eradication and "alternate economic activities" as well as lending for crops substitution.

[23] Section 803 of the Foreign Relations Authorization Act, Fiscal Year 1988 and 1989 (Title VIII of P.L. 100-204; 18 U.S.C. 3181 note), provided that the Secretary of State pursue with "each major illicit drug producing country and in each major drug-transit country" the negotiation of updated extradition treaties or effectively implement existing treaties to ensure that drug traffickers can be extradited to the United States.

[24] Section 407 of the International Development and Finance Act of 1989 (P.L. 101-240; 22 U.S.C. 2291 note) directed the Secretary of the Treasury to instruct U.S. Executive Directors of multilateral development banks to vote in favor of decisions that would "reduce the debt and debt burden of borrowing countries which are major producers, processors, traffickers, or exporters of illegal drugs to the United States" and "give preference to those countries which show marked improvement in reducing the volume of cultivation, processing, trafficking, and export to the United States of illegal drugs."

[25] Section 10 of the International Narcotics Control Act of 1989 (P.L. 101-231; 22 U.S.C. 2291 note) authorized the President to "release" Bolivia, Colombia, or Peru from their obligation to make payments to the United States Government of principal and interest on account of a loan made or credits extended to that country under the FAA or the Arms Export Control Act if the President determined that that country is implementing programs to reduce the flow of cocaine to the United States.

[26] Section 506(a)(2) of the FAA (22 U.S.C. 2318(a)(2)) authorized, if determined to be in the U.S. national interest, the President to "draw down articles and services from the inventory and resources of any agency of the United States Government and military education and training from the Department of Defense" for the purposes of Chapter 8 of Part I of the FAA (relating to international narcotics control), among other specified purposes. This special draw down authority has been invoked to provide counternarcotics assistance to Mexico in 1996 (Presidential Determination No. 97-9 of December 2, 1996); Colombia, Eastern Caribbean Regional Security System, Peru, and Venezuela in 1997 (Presidential Determination No. 97-38 of September 30, 1997); Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, Guatemala, Honduras, Jamaica, Mexico, Peru, and Trinidad and Tobago; and to Antigua and Barbuda, Barbados, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines (Presidential Determination No. 98-41 of September 30, 1998); and Colombia, Ecuador, Peru, and Panama in 1999 (Presidential Determination No. 99-43 of September 30, 1999).

	FY2015 actual	FY2016 actual	FY2017 actual	FY2018 actual	FY2019 actual
Philippines	—	2,300	2,050	1,500	500
Timor-Leste	100	—	—	—	—
State East Asia and Pacific Regional	1,000	1,000	—	—	—
Europe and Eurasia	**—**	**200**	**—**	**—**	**—**
Albania	—	200	—	—	—
South and Central Asia	**143,722**	**95,000**	**80,861**	**69,997**	**49,797**
Afghanistan	127,750	79,000	64,000	64,000	38,000
Kazakhstan	322	230	411	391	367
Pakistan	11,500	11,500	10,500	2,000	7,500
Tajikistan	150	270	1,950	700	1,000
Uzbekistan	—	—	—	300	500
Central Asia Regional	4,000	4,000	4,000	2,606	2,430
Western Hemisphere	**329,161**	**235,035**	**236,918**	**232,718**	**253,440**
Colombia	167,002	87,695	96,500	103,500	133,000
Mexico	46,999	57,500	44,183	54,183	56,000
Peru	59,600	35,100	31,100	29,900	29,900
State Western Hemisphere Regional	55,560	54,740	65,135	—	—
State Western Hemisphere Regional—CARSI	—	—	—	35,950	27,300
State Western Hemisphere Regional—CBSI	—	—	—	9,185	7,240
INL	**65,725**	**69,337**	**70,300**	**79,039**	**105,600**
INL—Critical Flight Safety Program	6,000	8,000	5,402	5,402	10,500
INL—Demand Reduction	12,500	12,500	12,500	12,500	15,000
INL—Drug Supply Reduction				11,825	17,000
INL—Inter-Regional Aviation Support	34,881	33,886	37,230	34,577	42,000
INL—International Organizations	3,400	3,100	3,200	2,175	3,100
INL—Program Development and Support	8,944	11,851	11,968	12,560	18,000
Total	**541,563**	**405,297**	**392,934**	**386,954**	**412,537**

Source: CRS presentation of data from the State Department's INCSR (2016-2020).

Notes: This table reproduces State Department budget data for the "counternarcotics program area," defined in a State Department resource document, *Updated Foreign Assistance Standardized Program Structure and Definitions* (published on April 19, 2016), as funding for programs to "combat international narcotics production and trafficking; reduce the cultivation and production of drugs; prevent the resurgence of drug production; and

limit the public health effects of the drug trade through international drug control and demand reduction, prevention and treatment projects."

CARSI = Central American Regional Security Initiative; CBSI = Caribbean Basin Security Initiative; INL = International Narcotics Control and Law Enforcement Affairs Bureau.

Restricting U.S. Support on Counternarcotics Grounds

Certain categories of U.S. support may be withheld from countries on the majors list that do not adhere to bilateral and international commitments on drug control policy measures. The process of identifying which countries on the majors list may receive assistance (and which ones are barred from such assistance) can serve as a unilateral incentive (or deterrent) to take action on drug control matters. In addition, policymakers can use this process to publicly recognize (or rebuke) the counterdrug efforts of foreign governments.

The process for restricting U.S. support to majors list countries has become more complex since 1986. Currently, the President may choose from two statutory options to determine which countries are subject to U.S. foreign aid restrictions:

- Section 490 of the FAA (see the section below on "Countries Determined to Have 'Cooperated Fully'") or
- Section 706 of the Department of State Authorization Act, Fiscal Year 2003 (see the section below on "Countries Determined to Have 'Failed Demonstrably'").

In addition to the majors list aid restrictions process, the President make take certain trade-related actions against certain major illicit drug-producing and drug-transit countries that have not "cooperated fully" during the previous year on drug control matters. (See the section below on "Trade-Related Certifications").

In 2006, Congress amended Section 490 of the FAA to require annual certification of the top five exporters and importers of methamphetamine precursors—even in years when the President invokes Section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003, to make the annual determinations for majors list countries. (See the section below on "Methamphetamine-Related Certifications.")

Defining U.S. Assistance

Pursuant to Section 481(e)(4) of the FAA, the term "United States assistance" for the purpose of international narcotics-related provisions in the FAA refers to

- any assistance authorized by the FAA (including programs relating to the U.S. International Development Finance Corporation), except counternarcotics-related assistance under Part I of the FAA (including alternative development assistance) and Chapter 4 of Part II of the FAA (including Economic Support Fund assistance), disaster relief assistance, assistance involving the provision of food or medicine, and refugee assistance;
- sales or financing on any terms of defense articles and services authorized by the Arms Export Control Act;
- the provision of agricultural commodities other than food under the Food for Peace Act; and
- financing under the Export-Import Act of 1945.[27]

Omitted from this definition of U.S. assistance are U.S. Department of Defense (DOD) security cooperation programs and activities and DOD-funded support to foreign countries for drug interdiction and counter-drug

[27] See also Section 2(b)(6) of Export-Import Bank Act of 1945, as amended (Ch. 341, as added by Title IV of P.L. 100-690 and subsequently amended; 12 U.S.C. 635(b)(6)(B)).

activities (e.g., authority to build capacity of foreign security forces for "counter-illicit drug trafficking operations," pursuant to 10 U.S.C. 333, and support for counterdrug activities and activities to counter transnational organized crime, pursuant to 10 U.S.C. 284). Provisions of training and equipment pursuant to 10 U.S.C. 333, however, may not be provided if such assistance is "otherwise prohibited by any provision of law."

Countries Determined to Have "Cooperated Fully"

Pursuant to Section 490 of the FAA (22 U.S.C. 2291j), 50% of U.S. bilateral assistance budgeted for allocation to majors list countries must be initially withheld.[28] As implemented from 1986 to 2001, this hold lasts until March 1, when the INCSR (described above) is submitted to Congress. At that time, such aid may be obligated and expended—but only if the President determines and certifies to Congress that the country has either "cooperated fully" with the United States on drug control matters or "taken adequate steps on its own to achieve full compliance with the goals and objectives" of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.[29] If the country would not otherwise qualify for certification on the basis of its adherence to bilateral and international counternarcotics commitments, the President may exempt the country from restrictions if "vital national interests of the United States" require continued assistance.

Congress may reject a President's certification by enacting a joint resolution of disapproval within 30 calendar days of receiving the INCSR.[30] However, without a two-thirds majority in both houses, the resolution would be subject to a presidential veto.[31] For countries on the majors list that are not certified ("decertified"), Section 490 of the FAA requires the other half of budgeted aid to be suspended.

In 2001, the last year in which Section 490 of the FAA was used as the basis for majors list determinations, the President decertified Afghanistan and Burma and issued national interest waivers for Cambodia and Haiti. The President certified the remaining 20 countries on the majors list. Between 1987 and 2001, the President certified the vast majority of countries on the majors list. As many as six countries were decertified without national interest waivers in a given year

[28] The FAA further provided that any assistance withheld from countries on the majors list should be transferred, consolidated, or reprogrammed, as appropriate, to "those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking." See Section 486 of the FAA (as added by Title IV of P.L. 100-690 and subsequently amended; 22 U.S.C. 2291e) and Section 569(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (P.L. 101-167; 22 U.S.C. 2291 note).

[29] Section 490(b)(2) of the FAA (22 U.S.C. 2291j(b)(2)) further required the President to consider, in determining which majors list countries to certify, the extent to which each country countered illicit drugs by meeting the goals of and adhering to bilateral and international counternarcotics commitments, as well as by taking legal and law enforcement measures to prevent and punish public corruption that facilitates illicit drug production and trafficking.

[30] Over the years, Congress introduced several resolutions disapproving certification of certain countries, including the Bahamas and Panama in 1987 and Mexico in 1987, 1988, 1997, 1998, and 1999.

[31] The President also has the option to invoke Section 614 of the FAA (22 U.S.C. 2364), under which he may provide assistance authorized by and capped at specified amounts in the FAA, "without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this Act, in furtherance of any of the purposes of this Act," when the President determines that it "is important to the security interests of the United States." In Presidential Determination No. 97-31 of August 16, 1997, the President invoked Section 614 of the FAA to "make sales and extend credits to Colombia of up to $30 million in Foreign Military Financing under the Arms Export Control Act" (Colombia was decertified in February 1997).

(see **Table A-1** for further detail). Some decertified countries were also not eligible for U.S. assistance for other foreign policy reasons.

Section 490 of the FAA further requires the United States to oppose new or extended loans to such countries by multilateral development banks (i.e., the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development).[32]

Beyond the FAA, decertification also disqualifies foreign countries from eligibility to receive transfers of forfeited personal property and the proceeds of the sale of forfeited property if such countries participated in the seizure or forfeiture of the property.[33]

Countries Determined to Have "Failed Demonstrably"

Responding to opposition to certification among certain foreign governments and advocacy organizations, Congress authorized an alternative to the certification process that was first implemented in 2002.[34] Since then, Presidents have applied a set of procedures for identifying which countries on the majors list would be subject to U.S. assistance restrictions, which differs from Section 490 of the FAA, described above. This current process for determining which countries on the majors list would be subject to U.S. assistance restrictions is statutorily described in Section 706 of the Department of State Authorization Act, Fiscal Year 2003 (Division A, P.L. 107-228; 22 U.S.C. 2291j-1).

FY2021: Aid Restrictions and Waivers to Countries on the Majors List

For FY2021, President Trump identified Bolivia and "the illegitimate regime of Nicolás Maduro in Venezuela" as having failed demonstrably on counterdrug matters. President Trump determined that the continuation of "programs that support the legitimate interim government in Venezuela and the Bolivian government are vital to the national interested of the United States" (see **Table A-3** for further detail).

Due September 15 each year, shortly before the start of the next fiscal year, the President is required to submit to appropriate congressional committees a report identifying countries on the majors list. The President's report also identifies any such countries found during the previous 12 months to have "failed demonstrably" at making "substantial efforts" to counter illicit drugs by meeting the goals of and adhering to bilateral and international counternarcotics commitments, as well as taking legal and law enforcement measures to prevent and punish public corruption that

[32] See also Section 13 of the International Development Association Act, as amended (P.L. 86-565 as added by P.L. 92-247; 22 U.S.C. 284k), which required the Secretary of the Treasury to instruct U.S. Executive Directors of the International Bank for Reconstruction and the Development and International Development Association to vote against any loan or other use of funds to countries that the President has determined has "failed to take adequate steps" to combat illegal drug production and trafficking destined for the United States.

[33] See in particular 18 U.S.C. 981 (on "civil forfeiture"); 19 U.S.C. 1616a (on the "disposition of forfeited property"); 21 U.S.C. 881 (on "forfeitures"); and 31 U.S.C. 9705 (on the "Department of the Treasury Forfeiture Fund").

[34] Section 591 of the Kenneth H. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 (P.L. 107-115), suspended for FY2002 only the drug certification provisions, pursuant to Section 490 of the FAA, for one year, authorizing FY2002 funds that would have otherwise been withheld to be obligated or expended, provided that the President submit the majors list within 45 days of enactment and designate which countries had "failed demonstrably" during the previous 12 months to counter illicit drugs by meeting the goals of and adhering to bilateral and international counternarcotics commitments, as well as taking legal and law enforcement measures to prevent and punish public corruption that facilitates illicit drug production and trafficking—the same new standard that would subsequently be enacted in Section 706 of the Department of State Authorization Act, Fiscal Year 2003 (Division A, P.L. 107-228; 22 U.S.C. 2291j-1).

facilitates illicit drug production and trafficking. Pursuant to Section 706, countries on the majors list that have failed demonstrably in their counternarcotics efforts are barred from U.S. assistance during that subsequent fiscal year, beginning October 1, unless the President determines that provision of such aid is "vital to the national interests of the United States."

Brief Comparison of Provisions

Section 490 of the FAA ("cooperated fully") and Section 706 of the Department of State Authorization Act, Fiscal Year 2003 ("failed demonstrably"), reflect two different approaches for determining which countries on the majors list could be subject to aid restrictions. Key comparative elements include the following:

Level of counternarcotics effort required. Section 490 of the FAA requires that countries commit to full cooperation with the United States or comply fully with the goals and objectives of the U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Section 706 of the Department of State Authorization Act, Fiscal Year 2003, sets a floor for required drug control action. Under this provision, anything other than demonstrable failure to make substantial efforts may be sufficient to avoid designation. Under both provisions, the President may waive restrictions when he determines that vital national interests are at stake.

Timing and imposition of aid restrictions on majors list countries. Under Section 490 of the FAA, plans for aid allocations to all majors list countries, including those ultimately certified for having cooperated fully on counterdrug matters, are affected by the default withholding of 50% of U.S. assistance. In contrast, Section 706 of the Department of State Authorization Act, Fiscal Year 2003, does not delay aid to majors list countries.

Applicability of multilateral assistance restrictions. Unlike Section 490 of the FAA, Section 706 of the Department of State Authorization Act, Fiscal Year 2003, does not refer directly to multilateral assistance limitations. However, the joint explanatory statement in the conference report accompanying the act states that the United States must oppose new or extended loans by multilateral development banks to countries failing to qualify for assistance under either Section 490 of the FAA or Section 706 of the Department of State Authorization Act, Fiscal Year 2003.[35]

Congressional role in aid allocations and restrictions. Section 490 of the FAA provides Congress with an opportunity to disagree and reject a President's decision to continue aid to a majors list country. Comparable language is not included in Section 706 of the Department of State Authorization Act, Fiscal Year 2003.

Trade-Related Certifications

In conjunction with Congress's 1986 enactment of the majors list certification process described above, Congress added a new subchapter to the Trade Act of 1974, entitled the Narcotics Control Trade Act (Title VIII of P.L. 93-618, as added by Title IX of P.L. 99-570 and subsequently amended; 19 U.S.C. 2491-2495). The Narcotics Control Trade Act authorized discretionary restrictions on trade, a sugar quota prohibition,[36] and definitions of major illicit drug-producing and drug-transit countries that differ from the definitions in the FAA.

Section 802 of the Narcotics Control Trade Act (19 U.S.C. 2492) authorized the President, "to the extent considered necessary by the President to achieve the purposes of this subchapter," to take one or more actions against a country on the majors list, unless the President certified to Congress

[35] U.S. Congress, House Committee of Conference, *Foreign Relations Authorization Act, Fiscal Year 2003*, conference report to accompany H.R. 1646, 107th Cong., 2nd sess., September 23, 2002, H.Rept. 107-671 (Washington: GPO, 2002), p. 149. Separately, Section 13 of the International Development Association Act, as amended (P.L. 86-565; 22 U.S.C. 284k), limits some multilateral assistance when the President determines a country has "failed to take adequate steps" to combat illegal drug production and trafficking destined for the United States. "Failing to cooperate on international narcotics control matters" also disqualifies certain countries, including heavily indebted poor countries, from being eligible for cancellation of U.S.-owed debt (Section 501 of Title V of Making miscellaneous appropriations for the fiscal year ending September 30, 1999, and for other purposes, H.R. 3425 [incorporated into Section 1000(a)(5) of Division B of the Consolidated Appropriations Act, 2000, P.L. 106-113]; 22 U.S.C. 2395a).

[36] To meet demand, the United States maintains import quotas for imports of sugar. See CRS Report R43998, *U.S. Sugar Program Fundamentals*, by Mark A. McMinimy.

that the country "cooperated fully" during the previous year on drug control matters. In taking action against countries on the majors list, the President may

- deny preferential tariff treatment of a country's exports under the Generalized System of Preferences, the Caribbean Basin Economic Recovery Act,[37] and any other law providing preferential tariff treatment;[38]
- levy additional duties on dutiable and/or duty-free products;
- curtail air transportation and traffic between the United States and that country; and
- withdraw U.S. personnel and resources from any preclearance customs arrangements.

Certification pursuant to Section 803 of the Narcotics Control Trade Act (19 U.S.C. 2493) also may result in a sugar quota prohibition. This provision prohibits the President, notwithstanding any other provision of law, from allocating a sugar quota to a country whose government is "involved in the trade of illicit narcotics or is failing to cooperate with the United States in narcotics enforcement activities."

Application of Narcotics-Related Trade Sanctions: The Case of Panama

In 1988, President Ronald Reagan issued Proclamation 5779 to determine, pursuant to Section 802 of the Narcotics Control Trade Act, to deny Panama until further notice preferential tariff treatment under the Generalized System of Preferences and the Caribbean Basin Economy Recovery Act. The decision to decertify Panama in 1988 followed Senate disapproval over the certification of Panama the previous year.[39] This presidential proclamation remained in effect until 1990, when President George H.W. Bush issued Proclamation 6103 to restore preferential tariff treatment to goods imported from Panama. The President, in 1988 and 1989, also decertified Panama pursuant to Section 490 of the FAA—a decision coinciding with revelations of General Manuel Noriega's involvement in drug trafficking activities and U.S. military intervention in Panama to remove him from power.

The Narcotics Control Act provides definitions for the terms "major drug-producing country" and "major drug-transit country" that differ from those currently in the FAA.[40] Section 805(2) of the Narcotics Control Act (19 U.S.C. 2495(2)) requires the measurement of illicit drug production in metric tons, rather than hectares.[41] Pursuant to Section 805(3) of the Narcotics Control Act (19

[37] Pursuant to Section 213 of the Caribbean Basin Economic Recovery Act (Title II of P.L. 98-67, as amended; 19 U.S.C. 2703), eligibility as a United-States Caribbean Basin Trade and Partnership Act beneficiary country depended in part on the extent to which the country "met the counter-narcotics certification criteria" in Section 490 of the FAA.

[38] Between 1991 and 2013, the Andean Trade Preference Act (P.L. 102-182) and the Andean Trade Promotion and Drug Eradication Act (P.L. 107-210), as amended (19 U.S.C. 3201-3206), permitted select beneficiary countries in South America, including in various years Bolivia, Colombia, Ecuador, and Peru, to export certain products to the United States duty-free or at otherwise preferential trade levels. Bolivia's eligibility was suspended in 2008 because it failed to meet the eligibility requirement of narcotics certification pursuant to Section 490 of the FAA. Peru and Colombia were removed from eligibility after bilateral free-trade agreements entered into force in 2009 and 2012, respectively.

[39] In 1987, the 100th Congress introduced a resolution to decertify Panama, S.J.Res. 91, which passed the Senate. In the accompanying committee report, S.Rept. 100-25, Senators Jesse Helms and John Kerry noted: "The State Department's performance in the certification constitutes an affront to the Congress and to the American people. Rather than present an honest certification to Congress, the State Department has chosen to obfuscate its responsibilities and public trust by engaging in what amounts to a cover-up of official corruption and narcotics trafficking" (p. 4).

[40] In 1994, Section 101(b)(2) of the International Narcotics Control Corrections Act of 1994 (P.L. 103-447) amended the FAA definition of "major illicit drug producing country." This amendment did not apply to the Narcotics Control Trade Act.

[41] Although prior INCSR reports prepared by the State Department included a table containing estimates on worldwide

U.S.C. 2495(3)), significant money laundering "with the knowledge or complicity of the government" can also qualify a country as a "major drug-transit country."

Methamphetamine-Related Certifications

Congress amended the majors list certification process in the Combat Methamphetamine Epidemic Act of 2005 (Title VII of P.L. 109-177). The act amended the certification process in response to concerns that the domestic abuse of methamphetamine had been spurred, at least in part, by foreign sources of chemical inputs, or precursor chemicals, believed to be used in the production of methamphetamine—notably, pseudoephedrine, ephedrine, and phenylpropanolamine.

Section 722 of the Combat Methamphetamine Epidemic Act of 2005 amended Section 489 of the FAA to include a separate section in the annual INCSR that requires the State Department to identify the top five exporters of selected methamphetamine precursors in the previous year and the top five importers of such precursors with the highest rate of diversion for illicit methamphetamine production. Section 722 of the act further amended Section 490 of the FAA to apply the annual majors list certification procedures to these top five exporters and importers of methamphetamine precursors—even in years when the President invokes Section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003, to make the annual determinations for major illicit drug-producing and drug-transit countries.

In practice, the annual determinations have been limited to top importers and exporters of pseudoephedrine and ephedrine, due in part to a lack of trade and production data.[42] In its annual INCSR, the State Department regularly cautions that the trade data, based on a commercially available source, may result in inaccurate assessments, especially with respect to identifying trends in illicit diversion and trafficking. Moreover, the State Department reports that most methamphetamine seized in the United States is no longer synthesized using pseudoephedrine and ephedrine, raising questions about the determinations' ongoing relevance.[43]

Since February 2007, when President George W. Bush identified the first set of countries pursuant to Section 722 of the Combat Methamphetamine Epidemic Act of 2005, all such countries have been found to have "cooperated fully" with the United States or taken adequate steps on their own to comply with international drug control commitments. Subsequent annual determinations were delegated to the State Department (see **Table A-4** for further detail).

2020 Certification of Top Exporters and Importers of Pseudoephedrine and Ephedrine

On February 15, 2020, then-Deputy Secretary of State Stephen Beigun determined, in Department of State Public Notice No. 11069 of February 15, 2020, that China, France, Germany, India, Indonesia, Iran, South Korea, Singapore, Switzerland, Taiwan, Turkey, and the United Kingdom were the top foreign exporters and importers of

potential illicit drug production, the 2020 edition does not. See, for example, the State Department's 2019 INCSR, vol. 1, p. 23, which contains production estimates for opium, potential pure heroin, potential pure cocaine, and potential export-quality cocaine.

[42] Congress also requires determinations to be based on top importers and exporters of phenylpropanolamine, but the State Department reports that it is not a methamphetamine precursor chemical. See U.S. Department of State, INCSR, 2020, vol. 1, p. 74.

[43] According to the State Department, the preferred method used to produce methamphetamine, particularly by Mexican drug trafficking organizations, "is the nitrostyrene method, which starts from benzaldehyde and nitroethane, to produce phenyl-2-propanone (P-2-P) or from the intermediary product 1-phenyl-2-nitropropene." U.S. Department of State, INCSR, 2020, vol. 1, p. 75.

pseudoephedrine and ephedrine in 2020. All 12 governments were determined to have "cooperated fully" with the United States or to have taken adequate steps on their own to achieve full compliance with international counternarcotics commitments.

Outlook for Congress

The decades-old process for identifying the world's major illicit drug-producing and drug-transit countries and determining whether such countries are eligible for certain forms of U.S. assistance remains an issue for the 117th Congress. In a December 2020 report to Congress, the Western Hemisphere Drug Policy Commission criticized the certification process as ineffective and recommended its repeal. Meanwhile, proposed legislation in the 116th Congress sought to broaden the scope of statutory provisions to apply to synthetic drugs, particularly synthetic opioids such as fentanyl and fentanyl-related substances.[44] Key issues the 117th Congress may consider include the following:

Counternarcotics Developments in Majors List Countries

President Biden's first INCSR is due in March, and the President's first determination on the majors list countries is due in September. The 117th Congress may choose to monitor how counternarcotics efforts progress or shift focus in the Biden Administration, particularly in the following countries:

Venezuela[45]

In September 2020, President Trump identified the "illegitimate regime of Nicolás Maduro in Venezuela" as having "failed demonstrably" at addressing U.S. and international drug control obligations. (President Trump used the same language to describe the Maduro government in his August 2019 determination; Venezuela was first designated as having "failed demonstrably" in September 2005.)[46] In March 2020, the U.S. District Court of the Southern District of New York indicted Maduro on charges of narcoterrorism and conspiracy to smuggle cocaine into the United States. In addition, Maduro and other current and former Venezuelan officials are subject to sanctions administered by the U.S. Department of the Treasury under national emergency and international emergency authorities. The U.S. Department of State is offering a reward of up to $15 million for information leading to Maduro's arrest or conviction.

Bolivia[47]

President Trump also identified Bolivia as having "failed demonstrably" at addressing U.S. and international drug control obligations. U.S.-Bolivian counternarcotics cooperation was strained until the forced resignation of President Evo Morales in November 2019 (Morales took office in

[44] See the FENTANYL Results Act (H.R. 7990, passed the House, and S. 4514) and Section 6284, "Blocking Deadly Fentanyl Imports" of the National Defense Authorization Act for Fiscal Year 2021 (S. 4049, as passed by the Senate).

[45] For more background, see CRS Report R44841, *Venezuela: Background and U.S. Relations*, coordinated by Clare Ribando Seelke.

[46] The United States ceased to recognize Nicolás Maduro as the legitimate president of Venezuela in January 2019. Instead, the U.S. government recognized Juan Guaidó, president of the democratically elected National Assembly (2015-2021) as Interim President.

[47] For more background, see CRS In Focus IF11325, *Bolivia: An Overview*, by Clare Ribando Seelke.

2006). In January 2020, President Trump lifted aid restrictions previously imposed for lack of counternarcotics cooperation, and in September 2020, President Trump suggested that he would "consider removing Bolivia" from the 2021 list of countries if cooperation continued. Bilateral cooperation on drug matters, however, remains uncertain under the administration of President Luis Arce, who won the October 2020 election and is a member of the Movimiento al Socialismo (MAS) political party led by Morales.[48]

Colombia[49]

In September 2020, President Trump described Colombia as having "unacceptably high levels" of coca cultivation and cocaine production, despite a shared U.S.-Colombia five-year goal to reduce cultivation and production levels by half by 2023. A question of ongoing interest to Congress may include whether the Biden Administration will continue U.S. pressure on Colombia to resume aerial eradication, which stopped in 2015 after the World Health Organization identified one of the active chemical ingredients used in such spraying operations, glyphosate, as "probably carcinogenic to humans."[50] Echoing the long-standing position of several advocacy organizations, the Western Hemisphere Drug Policy Commission's final report to Congress in December 2020 recommended not resuming aerial eradication in Colombia.[51]

Mexico[52]

In September 2020, President Trump warned that Mexico, as the primary source of heroin and methamphetamine seized in the United States and the transit route for most U.S.-bound cocaine, is in "serious risk of being found to have failed demonstrably to uphold its international drug commitments." To avoid such an outcome, President Trump noted the need for increased extraditions, comprehensive investigations and drug and asset seizures, data-based poppy eradication programming tied to alternative development, and prioritizing the targeting of fentanyl and methamphetamine production and trafficking. Bilateral counterdrug cooperation with the administration of Andrés Manuel López Obrador, however, has become further challenged following the surprise October 2020 U.S. arrest of former Mexican Secretary of Defense Salvador Cienfuegos, his release to Mexico, and his subsequent exoneration by the Mexican government in January 2021.

Peru[53]

Coca cultivation and cocaine production in Peru is "of great concern" and "near historical highs," according to President Trump's determination in September 2020. President Trump exhorted the

[48] Following Evo Morales's resignation, a conservative interim government that pledged to create a "drug free" Bolivia took office and reversed many of Morales's policies of community-based coca control. In December 2020, the Luis Arce government announced a drug policy similar to that of the Morales Administration.

[49] For more background, see CRS Report R43813, *Colombia: Background and U.S. Relations*, by June S. Beittel.

[50] World Health Organization, International Agency for Research on Cancer (IARC), "IARC Monographs Volume 112: Evaluation of Five Organophosphate Insecticides and Herbicides," press release, March 20, 2015. The detailed assessment of glyphosate was subsequently published in 2017 as volume 112 of the IARC's Monographs on the Evaluation of Carcinogenic Risks to Humans.

[51] Washington Office on Latin America, *Drug Certification: Ineffective Tool for Addressing Serious Problems in Latin America*, January 31, 2003.

[52] For more background, see CRS Report R42917, *Mexico: Background and U.S. Relations*, by Clare Ribando Seelke.

[53] For more background, see CRS Report R44445, *Peru: Politics, Economy, and Elections*, by Maureen Taft-Morales.

Peruvian government, currently in political turmoil following the November impeachment of President Martín Vizcarra, to pursue eradication operations in the Valley of the Apurimac, Ene, and Mantaro Rivers (known as the VRAEM). Two-thirds of Peru's cocaine originate in the VRAEM, but security challenges limit eradication options. Vizcarra authorized eradication operations in the VRAEM for the first time in November 2019.

Afghanistan[54]

The future of Afghanistan's role as the world's leader in illicit opium production potentially complicates U.S. efforts to secure a political settlement between the Afghan government and the Taliban.[55] Aside from identifying Afghanistan as a majors list country, President Trump did not include additional discussion of Afghanistan in his September 2020 determination. In February 2020, however, the Office of National Drug Control Policy announced that opium poppy cultivated in Afghanistan in 2019 could potentially produce 6,700 metric tons of pure heroin.[56] The March 2020 INCSR further noted that most opium poppy cultivation and opiate production occurs in areas under Taliban influence or control, generating considerable illicit revenue for the Taliban and other insurgents, as well as contributing to corruption and domestic drug use.[57] Earlier, in 2018, the Special Inspector General for Afghanistan Reconstruction reported that "no counterdrug program undertaken by the United States, its coalition partners, or the Afghan government resulted in lasting reductions in poppy cultivation or opium production."[58]

China

Between 1992 and 2004, successive U.S. Presidents kept China on the majors list but never decertified it or determined it to have "failed demonstrably" on counternarcotics grounds. Since 2007, China has appeared in most years on the annual U.S. list of top importers and exporters of pseudoephedrine and ephedrine. Counternarcotics policy discussion in recent years has focused on China's role as a major source of U.S.-bound synthetic opioids, including fentanyl and fentanyl-related substances (analogues and precursors).[59] In response, in part to U.S. pressure, China in 2019 imposed domestic controls on the entire fentanyl class of chemicals, including all known and all potential future variations of fentanyl.[60]

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[54] For more background, see CRS Report R45122, *Afghanistan: Background and U.S. Policy: In Brief*, by Clayton Thomas.

[55] See also Vanda Felbab-Brown (Brookings Institution), prepared testimony before the U.K. Parliament, House of Lords, International Relations and Defence Committee, *Inquiry into Afghanistan on Drugs, Security, and Counternarcotics Policies in Afghanistan*, October 29, 2020; Craig Whitlock, "Overwhelmed by Opium: The U.S. War on Drugs in Afghanistan Has Imploded at Nearly Every Turn," *Washington Post*, December 9, 2019; and Tia Sewell, "Where's the U.S. Strategy for Counternarcotics in Afghanistan?," Lawfare, November 18, 2020.

[56] Office of National Drug Control Policy, "ONDCP Releases Data on Poppy Cultivation and Potential Opium Production in Afghanistan," press release, February 7, 2020.

[57] U.S. Department of State, INCSR, vol. 1, p. 90.

[58] Special Inspector General for Afghanistan Reconstruction, *Counternarcotics: Lessons From the U.S. Experience in Afghanistan*, June 2018, p. vii.

[59] See section on "Addressing Synthetic Drug Producers." See also CRS In Focus IF10890, *Illicit Fentanyl and China's Role*, by Liana W. Rosen and Susan V. Lawrence.

[60] "China to Include All Fentanyl-Related Substances into Control List Since May 1," Xinhua News Agency, April 1, 2019.

Burma

Since the majors list's inception in 1987, Burma has been listed for its role in the production and trafficking of illicit opiates each year, including in President Trump's September 2020 determination. More recently, the State Department reports that Burma has emerged as "one of the largest global centers for crystal methamphetamine production."[61] Between 1989 and 2016, Burma had been either decertified or determined to have "failed demonstrably" on counternarcotics grounds. Between 2012 and 2016, President Barack Obama waived the application of aid restrictions on Burma during a period of time that coincided with the establishment of a civilian government and a desire improve bilateral relations. U.S. policy toward Burma, including potentially counternarcotics policy, may be shifting in light of the February 1, 2021, military coup.[62]

Impact on Allies and Adversaries

Central to the debate surrounding the annual determination process is whether and how foreign countries respond to their placement on the majors list and the consequences applied against poor-performing countries. For example, Congress's decision in 2002 to modify the previous certification process was driven largely by the perception among critics that certification had not had the intended effect—contributing instead to resentment and antagonism in bilateral relationships that appeared to undermine, rather than encourage, improved cooperation on narcotics matters.[63] In contrast, the State Department argued that the prospect of decertification motivated some countries to pass new counternarcotics laws, eradicate drug crops, and capture drug kingpins.[64] Some, however, view U.S. influence on international drug control policy today as diminishing, due in part to the ongoing role that U.S. drug demand plays in fueling global illicit drug trade. Moreover, State-level marijuana legalization schemes and policies have raised some concerns about the United States' compliance with international treaty obligations.[65]

Some observers view the determinations made pursuant to Section 706 of the Department of State Authorization Act, Fiscal Year 2003, as having had limited impact, especially among adversarial countries.[66] The Western Hemisphere Drug Policy Commission noted that in the case of Bolivia, which has been designated as having "failed demonstrably" since 2008 (when the government of Evo Morales expelled the U.S. Drug Enforcement Administration), the country turned to

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[61] U.S. Department of State, INCSR, vol. 1, p. 111.

[62] In a press statement, President Biden stated that the Burmese military's seizure of power "will necessitate an immediate review of our sanctions laws and authorities, followed by appropriate action." White House, "Statement by President Joseph R. Biden, Jr. on the Situation in Burma," press release, February 1, 2021. For further background, see CRS Report R44570, *U.S. Restrictions on Relations with Burma*, by Michael F. Martin, and CRS Insight IN11594, *Coup in Burma (Myanmar): Issues for U.S. Policy*, by Michael F. Martin, Kirt Smith, and Ben Dolven.

[63] See, for example, Council on Foreign Relations, *Rethinking International Drug Control: New Direction for U.S. Policy*, 1997; and Cato Institute, *Handbook for Congress*, "Chapter 56: The International War on Drugs," 2003, pp. 567-576.

[64] Prepared statement of Rand Beers (Assistant Secretary of State for International Narcotics and law Enforcement Affairs) in U.S. Congress, Senate Committee on Foreign Relations, *Review of the Anti-Drug Certification Process*, 107th Cong., 1st sess., March 1, 2001, S.Hrg. 107-18 (Washington: GPO, 2001), p. 26.

[65] The International Narcotics Control Board (INCB) was established by the 1961 Single Convention on Narcotic Drugs as an independent body to monitor country compliance with treaty requirements. The INCB has long been critical of jurisdictions that legalize recreational use of marijuana, including U.S. marijuana laws and policies at the state level. See for example, INCB, Report of the INCB for 2019, February 27, 2020, p. 112.

[66] Julie Ayling, "Conscription in the War on Drugs: Recent Reforms to the U.S. Drug Certification Process," *International Journal of Drug Policy*, vol. 16 (2005), pp. 376-383.

Venezuela as an alternate source of foreign assistance and relished the designation as a symbol of the Morales government's resistance to U.S. government policies.[67] President Trump leveraged the majors list determinations process to warn Colombia (which cultivates substantially more coca bush than Bolivia) in 2017 and Mexico in 2019 and 2020 in writing of potentially designating the countries as having failed demonstrably next year; the statements elicited immediate stakeholder reactions, but led to mixed counternarcotics results.[68]

Addressing Synthetic Drug Producers

An emerging issue of concern to Congress is the future relevance of the current majors list process amid an evolving global drug market that encompasses not only plant-derived illicit drugs, but an increasingly diverse variety of synthetic drugs. Noting that the majors list was conceived during a time when the world's most harmful drugs appeared to be plant-derived, the Western Hemisphere Drug Policy Commission called today's majors list "anachronistic."[69] According to the State Department's 2020 INCSR, "the most dangerous trend in the global illicit drug trade is the growing prevalence of synthetic drugs, and particularly synthetic opioids."[70] Global production and trafficking of synthetic drugs is growing more complex, due to the emergence of new psychoactive substances (NPS)—designer synthetic drugs created to mimic the effects of known illicit substances but not subject to domestic or international controls.

Some in Congress have questioned whether and how to ensure that significant synthetic drug production factors into decisions about including foreign countries on the majors list. In recent years, as the epidemic of fentanyl-related opioid overdoses in the United States has continued, policymakers have pushed for greater controls in countries where synthetic opioids are produced, including, in particular, China. One approach considered by some Members of Congress is to amend the definition of "major illicit drug producing country" in Section 481 of the FAA to include producers of illicit synthetic opioids.[71] The Combat Methamphetamine Epidemic Act of 2005 (Title VII of P.L. 109-177) offers an alternative example of congressional efforts to apply the majors list certification procedures to precursor chemicals used in the synthetic production of methamphetamine—without amending the definitions of major illicit drug-producing and drug-transit countries.

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[67] Western Hemisphere Drug Policy Commission, *Charting a New Path Forward*, "Appendix B: The Country Certification/Designation Process," December 2020, p. 95.

[68] Joshua Goodman, "Trump Delivers Shock Rebuke to Colombia Over Cocaine Surge," Associated Press, September 14, 2017; Adriana Alsema, "Nobody Has to Threaten Us: Colombia in Response to Trump," Colombia Reports, September 14, 2017; "Trump Threatens Drug War Ally Colombia Over Cocaine Surge," CBS News, September 14, 2017; "Mexico Skirts U.S. Criticism of Anti-Drug Enforcement," Associated Press, September 17, 2020; Office of Senator Marco Rubio, "Rubio and Scott Welcome Certification of Colombia in the Fight Against Drugs," press release, August 9, 2019.

[69] Western Hemisphere Drug Policy Commission, *Charting a New Path Forward*, "Appendix B: The Country Certification/Designation Process," December 2020, p. 96.

[70] U.S. Department of State, INCSR, vol. 1, March 2020, p. 80.

[71] Noting in particular the absence on the majors list of China, a country widely reported to be a major source of fentanyl, fentanyl analogues, and fentanyl precursors, Senator Pat Toomey introduced the Blocking Deadly Fentanyl Imports Act (S. 3255) in the 114th Congress. Office of Senator Pat Toomey, "New Toomey Bill Will Pressure China to Stop Exporting Deadly Illegal Fentanyl to U.S.," press release, July 20, 2016. The bill sought to amend the definition of "major illicit drug producing country" in Section 481 of the FAA and modify the certification and designation requirements under Section 490 of the FAA and Section 706 of the Department of State Authorization Act, Fiscal Year 2003. In the 116th Congress, a version of that bill was incorporated into the Senate-passed version of the National Defense Authorization Act for FY2021 (Section 6284 of S. 4049).

Assessing the Relevance of Certifications and Determinations

In a December 2020 hearing held by the House Foreign Affairs Committee, members of the Western Hemisphere Drug Policy Commission revisited the issue of whether to repeal the majors list certification and determination processes—a debate that has persisted since the 1986 provision was first enacted.[72] Critics have long contended that the current determinations process amounts to a unilateral "name and shame" public announcement that can cause more harm than good in bilateral relations with majors list countries. Some observers perceive the "one-size-fits-all" counternarcotics policy approach as unnecessarily blunt and inconsistent given past descriptions of a "shared responsibility" approach to the global drug problem that acknowledges the U.S. role in facilitating the illicit drug trade with domestic demand.[73]

Moreover, some contend that the threat of withholding U.S. assistance from majors list countries may no longer be as formidable as it once was, especially among countries whose economies have become less reliant on such external assistance and among countries that can turn to non-U.S. sources of external support, including possible U.S. adversaries and competitors (such as in the case of Bolivia, described above).[74] Some advocates of repeal further indicate that eliminating the certification and determination processes need not indicate a de-prioritization of counternarcotics objectives because other policy tools could remain in place, including the annual INCSR, bilateral and multilateral engagement, and targeted drug kingpin sanctions.[75]

In spite of such criticisms, some observers have recognized the value in requiring an annual and systematic review of other countries' counternarcotics performance—and conditioning U.S. assistance on a requirement that recipients cooperate on narcotics control.[76] The Western Hemisphere Drug Policy Commission also recognized that the annual process culminating with the presidential determination on major illicit drug-producing and drug-transit countries has helped to "focus interagency attention" on counternarcotics issues at the highest level of the

[72] CQ transcript of the House Foreign Affairs Committee hearing on "The Western Hemisphere Drug Policy Commission: Charting a New Path Forward," December 3, 2020.

[73] See, for example, U.S. Congress, Senate Committee on Foreign Relations, Subcommittee on Western Hemisphere, Peace Corps and Global Narcotics Affairs, *A Shared Responsibility: Counternarcotics and Citizen Security in the Americas*, 112th Cong., 1st sess., March 31, 2011, S,Hrg. 112-57 (Washington: GPO, 2011).

[74] See for example Socorro Ramírez and Coletta Youngers, *Drug Policy in the Andes: Seeking Humane and Effective Alternatives*, 2011, pp. 46-47.

[75] Prepared statement of Shannon K. O'Neil (Chair of the Western Hemisphere Drug Policy Commission) for a House Foreign Affairs Committee hearing on "The Western Hemisphere Drug Policy Commission: Charting A New Path Forward," December 3, 2020. See also prepared statement of Senator Joe Biden for a Senate Foreign Relations Committee hearing in 2001, in which the Senator stated: "Suspension of certification does not mean that we are going to stop paying attention to the actions of foreign nations in combating narcotics cultivation and trafficking.… [T]he State Department will continue to issue its annual report on narcotics. Congress will continue to monitor the situation closely." U.S. Congress, Senate Committee on Foreign Relations, *Review of the Anti-Drug Certification Process*, 107th Cong., 1st sess., March 1, 2001, S.Hrg. 107-18 (Washington: GPO, 2001), p. 20.

[76] For example, in Senator Biden's prepared statement for a Senate Foreign Relations Committee hearing in 2001, the Senator stated: "Mr. Chairman, 15 years ago, I joined several other colleagues in co-authoring the law to require the annual certification of counter-narcotics performance by foreign nations. For my part, enactment of the law was necessary to send a wake-up call. It was necessary, in my view, to push the major drug producing and transiting countries to take our concerns about the drug issue seriously. It was also necessary to force Congress and the Executive Branch to review, on a systematic basis, the counterdrug performance of our allies and our adversaries. I still believe it is reasonable for the United States to require aid recipients to cooperate on narcotics control…." U.S. Congress, Senate Committee on Foreign Relations, *Review of the Anti-Drug Certification Process*, 107th Cong., 1st sess., March 1, 2001, S.Hrg. 107-18 (Washington: GPO, 2001), p. 20.

executive branch.[77] Even if certification-related restrictions on U.S. assistance—including arms sales, foreign military financing (FMF), Export-Import Bank and multilateral development bank financing, and trade sanctions—are rarely applied, their existence as a potential policy tool to be invoked may still have soft power implications.[78] Arguably, the 2002 decision to introduce an alternative designation process for countries on the majors list reflected a decision by Congress at the time to preserve Section 490 of the FAA as an option for the President to invoke in the future.

More generally, concerns regarding the relevance of the drug-related certifications and determinations fit into a broader discussion of conditioning U.S. assistance on foreign policy outcomes—a long-standing but highly debated practice that stands as the cornerstone of U.S. legislative efforts to combat not only drug trafficking but also international terrorism, human trafficking, child soldiers, and violations of human rights, among other policy concerns.[79] Congressional interest in revisiting the majors list and the corresponding process for imposing aid restrictions on certain countries may propel considerations regarding the value and effectiveness of tying U.S. assistance to foreign policy-related conditionality.

[77] Western Hemisphere Drug Policy Commission, *Charting a New Path Forward*, "Appendix B: The Country Certification/Designation Process," December 2020, p. 95.

[78] In a prepared statement for a Senate Foreign Relations Committee hearing in 2001, Assistant Secretary of State for International Narcotics and law Enforcement Affairs Rand Beers stated: "[A]ny regime that might modify or replace certification should have an enforcement mechanism to ensure continued international cooperation. Moreover, if there were efforts to suspend the certification process we believe the President must retain in the interim the power to decertify or sanction individual countries using the standards of the current process." U.S. Congress, Senate Committee on Foreign Relations, *Review of the Anti-Drug Certification Process*, 107th Cong., 1st sess., March 1, 2001, S.Hrg. 107-18 (Washington: GPO, 2001), p. 27.

[79] In the 116th Congress, the Combating Global Corruption Act of 2019 (S. 1309) passed the Senate and sought to create a public country ranking system on the basis of level of government corruption. Senators Ben Cardin and Todd Young reintroduced the bill in the 117th Congress (S. 14).

Appendix. Presidential Determinations on the Majors List

Table A-1. Presidential Determinations on the Majors List, 1987-2001

Pursuant to Section 490 of the Foreign Assistance Act of 1961 (P.L. 87-195; 22 U.S.C. 2291j)

Presidential Determination (PD) Number and Date	"Certified" Majors List Countries/Jurisdictions for Cooperating Fully with the United States on Drug Control	Majors List Countries Issued Waivers on Vital National Interest Grounds	"Decertified" Majors List Countries Subject to Aid Limitations
PD No. 87-9 of February 28, 1987	19 countries/jurisdictions: The Bahamas, Belize, Bolivia, Brazil, Burma, Colombia, Ecuador, Hong Kong, India, Jamaica, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Panama, Paraguay, Peru, and Thailand	Laos and Lebanon	Afghanistan, Iran, and Syria
PD No. 88-10 of February 29, 1988	17 countries/jurisdictions: The Bahamas, Belize, Bolivia, Brazil, Burma, Colombia, Ecuador, Hong Kong, India, Jamaica, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Peru, and Thailand	Laos, Lebanon, and Paraguay	Afghanistan, Iran, Panama, and Syria
PD No. 89-11of February 28, 1989	17 countries/jurisdictions: The Bahamas, Belize, Bolivia, Brazil, Colombia, Ecuador, Hong Kong, India, Jamaica, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Paraguay, Peru, and Thailand	Lebanon	Afghanistan, Burma, Iran, Laos, Panama, and Syria
PD No. 90-12 of February 28, 1990	19 countries/jurisdictions: The Bahamas, Belize, Bolivia, Brazil, Colombia, Ecuador, Hong Kong, India, Jamaica, Laos, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Panama, Paraguay, Peru, and Thailand	Lebanon	Afghanistan, Burma, Iran, and Syria

Presidential Determination (PD) Number and Date	"Certified" Majors List Countries/Jurisdictions for Cooperating Fully with the United States on Drug Control	Majors List Countries Issued Waivers on Vital National Interest Grounds	"Decertified" Majors List Countries Subject to Aid Limitations
PD No. 91-22 of March 1, 1991	20 countries/jurisdictions (Guatemala added): The Bahamas, Belize, Bolivia, Brazil, Colombia, Ecuador, Guatemala, Hong Kong, India, Jamaica, Laos, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Panama, Paraguay, Peru, and Thailand	Lebanon	Afghanistan, Burma, Iran, and Syria
PD No. 92-18 of February 28, 1992	22 countries/jurisdictions (China and Venezuela added): The Bahamas, Belize, Bolivia, Brazil, China, Colombia, Ecuador, Guatemala, Hong Kong, India, Jamaica, Laos, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Panama, Paraguay, Peru, Thailand, and Venezuela	Lebanon	Afghanistan, Burma, Iran, and Syria
PD No. 93-18 of April 12, 1993	22 countries/jurisdictions; no changes since PD No. 91-18	Afghanistan and Lebanon	Burma, Iran, and Syria
PD No. 94-22 of April 1, 1994	16 countries/jurisdictions (Morocco removed; Bolivia, Laos, Panama, and Peru transferred to list of countries certified on national interest grounds; Nigeria transferred to decertified list): The Bahamas, Belize, Brazil, China, Colombia, Ecuador, Guatemala, Hong Kong, India, Jamaica, Malaysia, Mexico, Pakistan, Paraguay, Thailand, and Venezuela	Afghanistan, Bolivia, Laos, Lebanon, Panama, and Peru	Burma, Iran, Nigeria, and Syria

Presidential Determination (PD) Number and Date	"Certified" Majors List Countries/Jurisdictions for Cooperating Fully with the United States on Drug Control	Majors List Countries Issued Waivers on Vital National Interest Grounds	"Decertified" Majors List Countries Subject to Aid Limitations
PD No. 95-15 of February 28, 1995	18 countries/jurisdictions (Belize removed; Colombia, Pakistan, and Paraguay transferred to list of countries certified on national interest grounds; Laos and Panama transferred from list of countries certified on national interest grounds; Dominican Republic, Taiwan, and Vietnam added): The Bahamas, Brazil, China, Dominican Republic, Ecuador, Guatemala, Haiti, Hong Kong, India, Jamaica, Laos, Malaysia, Mexico, Panama, Taiwan, Thailand, Venezuela, and Vietnam	Bolivia, Colombia, Lebanon, Pakistan, Paraguay, and Peru	Afghanistan, Burma, Iran, Nigeria, and Syria
PD No. 96-13 of March 1, 1996	22 countries/jurisdictions: The Bahamas, Belize, Bolivia, Brazil, Cambodia, China, Dominican Republic, Ecuador, Guatemala, Haiti, Hong Kong, India, Jamaica, Laos, Malaysia, Mexico, Panama, Peru, Taiwan, Thailand, Venezuela, and Vietnam	Lebanon, Pakistan, and Paraguay	Afghanistan, Burma, Colombia, Iran, Nigeria, and Syria
PD No. 97-18 of February 28, 1997	23 countries/jurisdictions: Aruba, The Bahamas, Bolivia, Brazil, Cambodia, China, Dominican Republic, Ecuador, Guatemala, Haiti, Hong Kong, India, Jamaica, Laos, Malaysia, Mexico, Panama, Paraguay, Peru, Taiwan, Thailand, Venezuela, and Vietnam	Belize, Lebanon, and Pakistan	Afghanistan, Burma, Colombia,[a] Iran, Nigeria, and Syria
PD No. 98-15 of February 26, 1998	22 countries/jurisdictions: Aruba, The Bahamas, Belize, Bolivia, Brazil, China, Dominican Republic, Ecuador, Guatemala, Haiti, Hong Kong, India, Jamaica, Laos, Malaysia, Mexico, Panama, Peru, Taiwan, Thailand, Venezuela, and Vietnam	Cambodia, Colombia, Pakistan, and Paraguay	Afghanistan, Burma, Iran, and Nigeria

Presidential Determination (PD) Number and Date	"Certified" Majors List Countries/Jurisdictions for Cooperating Fully with the United States on Drug Control	Majors List Countries Issued Waivers on Vital National Interest Grounds	"Decertified" Majors List Countries Subject to Aid Limitations
PD No. 99-15 of February 26 1999	22 countries/jurisdictions: Aruba, The Bahamas, Belize, Bolivia, Brazil, China, Colombia, Dominican Republic, Ecuador, Guatemala, Hong Kong, India, Jamaica, Laos, Mexico, Pakistan, Panama, Peru, Taiwan, Thailand, Venezuela, and Vietnam	Cambodia, Haiti, Nigeria, and Paraguay	Afghanistan and Burma
PD No. 2000-16 of February 29, 2000	20 countries/jurisdictions: The Bahamas, Bolivia, Brazil, China, Colombia, Dominican Republic, Ecuador, Guatemala, Hong Kong, India, Jamaica, Laos, Mexico, Pakistan, Panama, Peru, Taiwan, Thailand, Venezuela, and Vietnam	Cambodia, Haiti, Nigeria, and Paraguay	Afghanistan and Burma
PD No. 20001-12 of March 1, 2001	20 countries: The Bahamas, Bolivia, Brazil, China, Colombia, Dominican Republic, Ecuador, Guatemala, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, Thailand, Venezuela, and Vietnam	Cambodia and Haiti	Afghanistan and Burma

Source: CRS.

a. In PD No. 97-31 of August 16, 1997, the President invoked Section 614 of the FAA (22 U.S.C. 2364) to "make sales and extend credits to Colombia of up to $30 million in Foreign Military Financing under the Arms Export Control Act."

Table A-2. Presidential Determination on the Majors List, FY2002

Pursuant to Section 591 of the Kenneth H. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 (P.L. 107-115)

Presidential Determination (PD) Number and Date	Majors List Countries	Majors List Countries Subject to Aid Limitations	Status of Waivers to Majors List Countries
PD No. 2002-07 of February 23, 2002	23 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	For FY2002: Afghanistan, Burma, and Haiti	The President granted waivers for U.S. assistance to Afghanistan and Haiti.

Source: CRS.

Table A-3. Presidential Determinations on the Majors List, FY2003-Present

Pursuant to Section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107-228; 22 U.S.C. 2291j)

Presidential Determination (PD) Number and Date	Majors List Countries	Majors List Countries Subject to Aid Limitations	Status of Aid Waivers to Majors List Countries
PD No. 2003-14 of January 30, 2003 (acting under transition rule)	23 countries (no change since PD No. 2002-07): 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	For FY2003: Burma, Guatemala, and Haiti	The President granted waivers for U.S. assistance to Guatemala and Haiti.
PD No. 2003-38 of September 15, 2003	23 countries; no changes since PD No. 2003-14.	For FY2004: Burma and Haiti	The President granted a waiver for U.S. assistance to Haiti.
PD No. 2004-47 of September 15, 2004	22 countries (Thailand removed): Afghanistan, The Bahamas, Bolivia, Brazil, Burma, China, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, Venezuela, and Vietnam	For FY2005: Burma	None.
PD No. 2005-36 of September 14, 2005	20 countries (China and Vietnam removed): Afghanistan, The Bahamas, Bolivia, Brazil, Burma, Colombia, Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Nigeria, Pakistan, Panama, Paraguay, Peru, and Venezuela	For FY2006: Burma and Venezuela	For Venezuela, the President granted waivers to "aid Venezuela's democratic institutions, establish selected community development projects, and strengthen Venezuela's political party system."

Presidential Determination (PD) Number and Date	Majors List Countries	Majors List Countries Subject to Aid Limitations	Status of Aid Waivers to Majors List Countries
PD No. 2006-24 of September 15, 2006	20 countries; no changes since PD No. 2005-36	For FY2007: Burma and Venezuela	The President granted a waiver for programs to "aid Venezuela's democratic institutions."
PD No. 2007-33 of September 14, 2007	20 countries; no changes since PD No. 2005-36	For FY2008: Burma and Venezuela	The President granted a waiver for programs to "aid Venezuela's democratic institutions."
PD No. 2008-28 of September 15, 2008	20 countries; no changes since PD No. 2005-36	For FY2009: Bolivia, Burma, and Venezuela	The President granted waivers for programs "to aid Venezuela's democratic institutions" and for "continued support for bilateral programs in Bolivia."
PD No. 2009-30 of September 15, 2009	20 countries; no changes since PD No. 2005-36	For FY2010: Bolivia, Burma, and Venezuela	The President granted waivers for programs "to aid Venezuela's democratic institutions" and for "continued support for bilateral programs in Bolivia."
PD No. 2010-16 of September 15, 2010, as amended	20 countries (Brazil, Nigeria, and Paraguay removed; Costa Rica, Honduras, and Nicaragua added): Afghanistan, The Bahamas, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela	For FY2011: Bolivia, Burma, and Venezuela	The President granted waivers for "continued support for bilateral programs in Bolivia and limited programs in Venezuela."
PD No. 2011-16 of September 15, 2011	22 countries (Belize and El Salvador added): Afghanistan, The Bahamas, Belize, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela	For FY2012: Bolivia, Burma, and Venezuela	The President granted waivers for "programs to aid Bolivia and Venezuela."
PD No. 2012-15 of September 14, 2012	22 countries; no changes since PD No. 2011-16	For FY2013: Bolivia, Burma, and Venezuela	The President granted waivers for "programs to aid Bolivia, Burma, and Venezuela."
PD No. 2013-14 of September 13, 2013	22 countries; no changes since PD No. 2011-16	For FY2014: Bolivia, Burma, and Venezuela	The President granted waivers for "programs to aid Burma and Venezuela."
PD No. 2014-15 of September 15, 2014	22 countries; no changes since PD No. 2011-16	For FY2015: Bolivia, Burma, and Venezuela	The President granted waivers for "programs to aid Burma and Venezuela."

Presidential Determination (PD) Number and Date	Majors List Countries	Majors List Countries Subject to Aid Limitations	Status of Aid Waivers to Majors List Countries
PD No. 2015-12 of September 14, 2015	22 countries; no changes since PD No. 2011-16	For FY2016: Bolivia, Burma, and Venezuela	The President granted waivers for "programs to aid Burma and Venezuela."
PD No. 2016-10 of September 12, 2016	22 countries; no changes since PD No. 2011-16	For FY2017: Bolivia, Burma, and Venezuela	The President granted waivers for "programs to aid Burma and Venezuela."
PD No. 2017-12 of September 13, 2017	22 countries; no changes since PD No. 2011-16	For FY2018: Bolivia and Venezuela	The President granted waivers for "programs to aid the people of Venezuela."
PD No. 2018-12 of September 11, 2018	22 countries; no changes since PD No. 2011-16	For FY2019: Bolivia and Venezuela	The President granted waivers for "programs to aid the promotion of democracy in Venezuela."
PD No. 2019-22 of August 8, 2019 and PD No. 2020-05 of January 6, 2020	22 countries; no changes since PD No. 2011-16	For FY2020: Bolivia and "the illegitimate regime of Nicolás Maduro in Venezuela"	The President granted waivers for "programs that support the legitimate interim government in Venezuela." In PD No. 2020-05, the President further waived "United States assistance to Bolivia in Fiscal Year 2020."
PD No. 2020-11 of September 16, 2020	22 countries; no changes since PD No. 2011-16	For FY2021: Bolivia and "the illegitimate regime of Nicolás Maduro in Venezuela"	The President granted waivers for "programs that support the legitimate interim government in Venezuela and the Bolivian government."

Source: CRS.

Table A-4. Determinations and Certifications Relating to the Largest Exporting and Importing Countries and Jurisdictions of Certain Precursor Chemicals

Pursuant to §490 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2291j)

Determination Year	Countries and Jurisdictions Identified (in alphabetical order)
2007	Belgium, China, Germany, India, Indonesia, Mexico, Singapore, South Africa, South Korea, Switzerland, Taiwan, and the United Kingdom (PD 2007-14 of February 28, 2007)
2008	China, France, Germany, India, Indonesia, Mexico, Singapore, South Korea, Switzerland, Taiwan, Thailand, United Kingdom
2009	Argentina, Belgium, China, Germany, India, Indonesia, Singapore, South Korea, Switzerland, Taiwan, Thailand, and the United Kingdom (Department of State Public Notice No. 6567 of March 3, 2009)
2010	Argentina, China, Denmark, Egypt, Germany, India, Indonesia, Singapore, South Korea, Switzerland, Taiwan, Thailand, and the United Kingdom
2011	Egypt, Germany, India, Indonesia, Nigeria, Singapore, Switzerland, Taiwan, Thailand, and the United Kingdom (Department of State Public Notice No. 7455 of March 11, 2011)

Determination Year	Countries and Jurisdictions Identified (in alphabetical order)
2012	China, Egypt, France, Germany, India, Nigeria, Singapore, Slovenia, South Korea, Switzerland, Taiwan, and the United Kingdom
2013	Belgium, China, Egypt, Germany, India, Indonesia, Poland, Singapore, South Korea, Switzerland, Taiwan, and the United Kingdom (Department of State Public Notice No. 8287 of March 12, 2013)
2014	China, Egypt, Germany, Hong Kong, India, Indonesia, Poland, Singapore, South Korea, Switzerland, Taiwan
2015	China, Denmark, Egypt, Germany, India, Indonesia, Singapore, South Korea, Switzerland, Taiwan, and the United Kingdom (Department of State Public Notice No. 9080 of March 13, 2015)
2016	China, Egypt, Germany, India, Indonesia, Singapore, South Korea, Switzerland, Taiwan, Turkey, and the United Kingdom (Department of State Public Notice No. 9499 of March 14, 2016)
2017	Canada, China, Denmark, Egypt, France, Germany, Greece, India, Indonesia, Singapore, South Korea, Switzerland, and the United Kingdom (Department of State Public Notice No. 9937 of March 6, 2017)
2018	Egypt, Germany, Greece, India, Indonesia, Singapore, South Korea, Spain, Switzerland, Turkey, and the United Kingdom (Department of State Public Notice No. 10360 of February 28, 2018)
2019	China, Egypt, France, Germany, Greece, India, Indonesia, Italy, Singapore, South Korea, Switzerland, Taiwan, Turkey, and the United Kingdom (Determination of April 19, 2019 by Deputy Secretary of State John J. Sullivan)
2020	China, France, Germany, India, Indonesia, Iran, Singapore, South Korea, Switzerland, Taiwan, Turkey, and the United Kingdom (Department of State Public Notice No. 11069 of February 15, 2020)

Source: CRS.

Notes: Since 2008, determinations have been exercised by the Secretary of State pursuant to Executive Order 12163 and by the Deputy Secretary of State pursuant to State Department Delegation of Authority 245-2. Countries and jurisdictions identified in 2008, 2010, 2012, and 2014 are based on the State Department's International Narcotics Control Strategy Reports (INCSRs) for those years.

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