

106TH CONGRESS
1ST SESSION

H. R. 3164

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 1999

Mr. GOSS (for himself, Mr. McCOLLUM, Mr. GILMAN, Mr. HASTERT, Mr. RANGEL, Mrs. FOWLER, Mr. YOUNG of Florida, Mr. KOLBE, Mr. COX, Mr. PORTMAN, Mr. BOEHLERT, Mr. BASS, Mr. LEWIS of California, Mr. DREIER, Mr. LAHOOD, Mr. BLUNT, Mr. CASTLE, Ms. PRYCE of Ohio, and Mr. ARMEY) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the imposition of economic sanctions on certain foreign persons engaging in, or otherwise involved in, international narcotics trafficking.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Narcotics
5 Kingpin Designation Act”.

6 **SEC. 2. FINDINGS AND POLICY.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) Presidential Decision Directive 42, issued
2 on October 21, 1995, ordered agencies of the execu-
3 tive branch of the United States Government to,
4 inter alia, increase the priority and resources de-
5 voted to the direct and immediate threat inter-
6 national crime presents to national security, work
7 more closely with other governments to develop a
8 global response to this threat, and use aggressively
9 and creatively all legal means available to combat
10 international crime.

11 (2) Executive Order No. 12978 of October 21,
12 1995, provides for the use of the authorities in the
13 International Emergency Economic Powers Act
14 (IEEPA) (50 U.S.C. 1701 et seq.) to target and
15 apply sanctions to 4 international narcotics traf-
16 fickers and their organizations that operate from Co-
17 lombia.

18 (3) IEEPA was successfully applied to inter-
19 national narcotics traffickers in Colombia and based
20 on that successful case study, Congress believes
21 similar authorities should be applied worldwide.

22 (4) There is a national emergency resulting
23 from the activities of international narcotics traf-
24 fickers and their organizations that threatens the

1 national security, foreign policy, and economy of the
2 United States.

3 (b) POLICY.—It shall be the policy of the United
4 States to apply economic and other financial sanctions to
5 significant foreign narcotics traffickers and their organiza-
6 tions worldwide to protect the national security, foreign
7 policy, and economy of the United States from the threat
8 described in subsection (a)(4).

9 **SEC. 3. PURPOSE.**

10 The purpose of this Act is to provide authority for
11 the identification of, and application of sanctions on a
12 worldwide basis to, significant foreign narcotics traf-
13 fickers, their organizations, and the foreign persons who
14 provide support to those significant foreign narcotics traf-
15 fickers and their organizations, whose activities threaten
16 the national security, foreign policy, and economy of the
17 United States.

18 **SEC. 4. PUBLIC IDENTIFICATION OF SIGNIFICANT FOREIGN**
19 **NARCOTICS TRAFFICKERS AND REQUIRED**
20 **REPORTS.**

21 (a) PROVISION OF INFORMATION TO THE PRESI-
22 DENT.—The Secretary of the Treasury, the Attorney Gen-
23 eral, the Secretary of Defense, the Secretary of State, and
24 the Director of Central Intelligence shall consult among
25 themselves and provide the appropriate and necessary in-

1 formation to enable the President to submit the report
2 under subsection (b). This information shall also be pro-
3 vided to the Director of the Office of National Drug Con-
4 trol Policy.

5 (b) PUBLIC IDENTIFICATION AND SANCTIONING OF
6 SIGNIFICANT FOREIGN NARCOTICS TRAFFICKERS.—Not
7 later than June 1, 2000, and not later than June 1 of
8 each year thereafter, the President shall submit a report
9 to the Permanent Select Committee on Intelligence, and
10 the Committees on the Judiciary, International Relations,
11 Armed Services, and Ways and Means of the House of
12 Representatives; and to the Select Committee on Intel-
13 ligence, and the Committees on the Judiciary, Foreign Re-
14 lations, Armed Services, and Finance of the Senate—

15 (1) identifying publicly the foreign persons that
16 the President determines are appropriate for sanc-
17 tions pursuant to this Act; and

18 (2) detailing publicly the President's intent to
19 impose sanctions upon these significant foreign nar-
20 cotics traffickers pursuant to this Act.

21 The report required in this subsection shall not include
22 information on persons upon which United States sanc-
23 tions imposed under this Act, or otherwise on account of
24 narcotics trafficking, are already in effect.

1 (c) UNCLASSIFIED REPORT REQUIRED.—The report
2 required by subsection (b) shall be submitted in unclassi-
3 fied form and made available to the public.

4 (d) CLASSIFIED REPORT.—(1) Not later than July
5 1, 2000, and not later than July 1 of each year thereafter,
6 the President shall provide the Permanent Select Com-
7 mittee on Intelligence of the House of Representatives and
8 the Select Committee on Intelligence of the Senate with
9 a report in classified form describing in detail the status
10 of the sanctions imposed under this Act, including the per-
11 sonnel and resources directed towards the imposition of
12 such sanctions during the preceding fiscal year, and pro-
13 viding background information with respect to newly iden-
14 tified significant foreign narcotics traffickers and their ac-
15 tivities.

16 (2) Such classified report shall describe actions the
17 President intends to undertake or has undertaken with re-
18 spect to such significant foreign narcotics traffickers.

19 (3) The report required under this subsection is in
20 addition to the President's obligation to keep the intel-
21 ligence committees of Congress fully and completely in-
22 formed of the provisions of the National Security Act of
23 1947.

24 (e) EXCLUSION OF CERTAIN INFORMATION.—

1 (1) INTELLIGENCE.—Notwithstanding any
2 other provision of this section, the reports described
3 in subsections (b) and (d) shall not disclose the iden-
4 tity of any person, if the Director of Central Intel-
5 ligence determines that such disclosure could com-
6 promise an intelligence operation, activity, source, or
7 methods of the United States.

8 (2) LAW ENFORCEMENT.—Notwithstanding any
9 other provision of this section, the reports described
10 in subsections (b) and (d) shall not disclose the
11 name of any person if the Attorney General, in co-
12 ordination as appropriate with the Director of the
13 Federal Bureau of Investigation, the Administrator
14 of the Drug Enforcement Administration, and the
15 Secretary of the Treasury, determines that such dis-
16 closure could reasonably be expected to—

17 (A) compromise the identity of a confiden-
18 tial source, including a State, local, or foreign
19 agency or authority or any private institution
20 that furnished information on a confidential
21 basis;

22 (B) jeopardize the integrity or success of
23 an ongoing criminal investigation or prosecu-
24 tion;

1 (C) endanger the life or physical safety of
2 any person; or

3 (D) cause substantial harm to physical
4 property.

5 (f) NOTIFICATION REQUIRED.—(1) Whenever either
6 the Director of Central Intelligence or the Attorney Gen-
7 eral makes a determination under subsection (e), the Di-
8 rector of Central Intelligence or the Attorney General shall
9 notify the Permanent Select Committee on Intelligence of
10 the House of Representatives and the Select Committee
11 on Intelligence of the Senate, and explain the reasons for
12 such determination.

13 (2) The notification required under this subsection
14 shall be submitted to the Permanent Select Committee on
15 Intelligence of the House of Representatives and the Se-
16 lect Committee on Intelligence of the Senate not later than
17 July 1, 2000, and on an annual basis thereafter.

18 (g) DETERMINATIONS NOT TO APPLY SANCTIONS.—
19 (1) The President may waive the application to a signifi-
20 cant foreign narcotics trafficker of any sanction author-
21 ized by this title if the President determines that the appli-
22 cation of sanctions under this Act would significantly
23 harm the national security of the United States.

24 (2) When the President determines not to apply sanc-
25 tions that are authorized by this Act to any significant

1 foreign narcotics trafficker, the President shall notify the
2 Permanent Select Committee on Intelligence, and the
3 Committees on the Judiciary, International Relations,
4 Armed Services, and Ways and Means of the House of
5 Representatives, and the Select Committee on Intelligence,
6 and the Committees on the Judiciary, Foreign Relations,
7 Armed Services, and Finance of the Senate not later than
8 21 days after making such determination.

9 (h) CHANGES IN DETERMINATIONS TO IMPOSE
10 SANCTIONS.—

11 (1) ADDITIONAL DETERMINATIONS.—(A) If at
12 any time after the report required under subsection
13 (b) the President finds that a foreign person is a
14 significant foreign narcotics trafficker and such for-
15 eign person has not been publicly identified in a re-
16 port required under subsection (b), the President
17 shall submit an additional public report containing
18 the information described in subsection (b) with re-
19 spect to such foreign person to the Permanent Select
20 Committee on Intelligence, and the Committees on
21 the Judiciary, International Relations, Armed Serv-
22 ices, and Ways and Means of the House of Rep-
23 resentatives, and the Select Committee on Intel-
24 ligence, and the Committees on the Judiciary, For-

1 eign Relations, Armed Services, and Finance of the
2 Senate.

3 (B) The President may apply sanctions author-
4 ized under this Act to the significant foreign nar-
5 cotics trafficker identified in the report submitted
6 under subparagraph (A) as if the trafficker were
7 originally included in the report submitted pursuant
8 to subsection (b) of this section.

9 (C) The President shall notify the Secretary of
10 the Treasury of any determination made under this
11 paragraph.

12 (2) REVOCATION OF DETERMINATION.—(A)
13 Whenever the President finds that a foreign person
14 that has been publicly identified as a significant for-
15 eign narcotics trafficker in the report required under
16 subsection (b) or this subsection no longer engages
17 in those activities for which sanctions under this Act
18 may be applied, the President shall issue public no-
19 tice of such a finding.

20 (B) Not later than the date of the public notice
21 issued pursuant to subparagraph (A), the President
22 shall notify, in writing and in classified or unclassi-
23 fied form, the Permanent Select Committee on Intel-
24 ligence, and the Committees on the Judiciary, Inter-
25 national Relations, Armed Services, and Ways and

1 Means of the House of Representatives, and the Se-
2 lect Committee on Intelligence, and the Committees
3 on the Judiciary, Foreign Relations, Armed Services,
4 and Finance of the Senate of actions taken under
5 this paragraph and a description of the basis for
6 such actions.

7 **SEC. 5. BLOCKING ASSETS AND PROHIBITING TRANS-**
8 **ACTIONS.**

9 (a) **APPLICABILITY OF SANCTIONS.**—A significant
10 foreign narcotics trafficker publicly identified in the report
11 required under subsection (b) or (h)(1) of section 4 and
12 foreign persons designated by the Secretary of the Treas-
13 ury pursuant to subsection (b) of this section shall be sub-
14 ject to any and all sanctions as authorized by this Act.
15 The application of sanctions on any foreign person pursu-
16 ant to subsection (b) or (h)(1) of section 4 or subsection
17 (b) of this section shall remain in effect until revoked pur-
18 suant to section 4(h)(2) or subsection (e)(1)(A) of this
19 section or waived pursuant to section 4(g)(1).

20 (b) **BLOCKING OF ASSETS.**—Except to the extent
21 provided in regulations, orders, instructions, licenses, or
22 directives issued pursuant to this Act, and notwith-
23 standing any contract entered into or any license or permit
24 granted prior to the date on which the President submits
25 the report required under subsection (b) or (h)(1) of sec-

1 tion 4, there are blocked as of such date, and any date
2 thereafter, all such property and interests in property
3 within the United States, or within the possession or con-
4 trol of any United States person, which are owned or con-
5 trolled by—

6 (1) any significant foreign narcotics trafficker
7 publicly identified by the President in the report re-
8 quired under subsection (b) or (h)(1) of section 4;

9 (2) any foreign person that the Secretary of the
10 Treasury, in consultation with the Attorney General,
11 the Director of Central Intelligence, the Director of
12 the Federal Bureau of Investigation, the Adminis-
13 trator of the Drug Enforcement Administration, the
14 Secretary of Defense, and the Secretary of State,
15 designates as materially assisting in, or providing fi-
16 nancial or technological support for or to, or pro-
17 viding goods or services in support of, the inter-
18 national narcotics trafficking activities of a signifi-
19 cant foreign narcotics trafficker so identified in the
20 report required under subsection (b) or (h)(1) of sec-
21 tion 4, or foreign persons designated by the Sec-
22 retary of the Treasury pursuant to this subsection;

23 (3) any foreign person that the Secretary of the
24 Treasury, in consultation with the Attorney General,
25 the Director of Central Intelligence, the Director of

1 the Federal Bureau of Investigation, the Adminis-
2 trator of the Drug Enforcement Administration, the
3 Secretary of Defense, and the Secretary of State,
4 designates as owned, controlled, or directed by, or
5 acting for or on behalf of, a significant foreign nar-
6 cotics trafficker so identified in the report required
7 under subsection (b) or (h)(1) of section 4, or for-
8 eign persons designated by the Secretary of the
9 Treasury pursuant to this subsection; and

10 (4) any foreign person that the Secretary of the
11 Treasury, in consultation with the Attorney General,
12 the Director of Central Intelligence, the Director of
13 the Federal Bureau of Investigation, the Adminis-
14 trator of the Drug Enforcement Administration, the
15 Secretary of Defense, and the Secretary of State,
16 designates as playing a significant role in inter-
17 national narcotics trafficking.

18 (c) PROHIBITED TRANSACTIONS.—Except to the ex-
19 tent provided in regulations, orders, instructions, licenses,
20 or directives issued pursuant to this Act, and notwith-
21 standing any contract entered into or any license or permit
22 granted prior to the date on which the President submits
23 the report required under subsection (b) or (h)(1) of sec-
24 tion 4, the following transactions are prohibited:

1 (1) Any transaction or dealing by a United
2 States person, or within the United States, in prop-
3 erty or interests in property of any significant for-
4 eign narcotics trafficker so identified in the report
5 required pursuant to subsection (b) or (h)(1) of sec-
6 tion 4, and foreign persons designated by the Sec-
7 retary of the Treasury pursuant to subsection (b) of
8 this section.

9 (2) Any transaction or dealing by a United
10 States person, or within the United States, that
11 evades or avoids, or has the effect of evading or
12 avoiding, and any endeavor, attempt, or conspiracy
13 to violate, any of the prohibitions contained in this
14 Act.

15 (d) LAW ENFORCEMENT AND INTELLIGENCE ACTIVI-
16 TIES NOT AFFECTED.—Nothing in this Act prohibits or
17 otherwise limits the authorized law enforcement or intel-
18 ligence activities of the United States, or the law enforce-
19 ment activities of any State or subdivision thereof.

20 (e) IMPLEMENTATION.—(1) The Secretary of the
21 Treasury, in consultation with the Attorney General, the
22 Director of Central Intelligence, the Director of the Fed-
23 eral Bureau of Investigation, the Administrator of the
24 Drug Enforcement Administration, the Secretary of De-
25 fense, and the Secretary of State, is authorized to take

1 such actions as may be necessary to carry out this Act,
2 including—

3 (A) making those designations authorized by
4 paragraphs (2), (3), and (4) of subsection (b) of this
5 section and revocation thereof;

6 (B) promulgating rules and regulations per-
7 mitted under this Act; and

8 (C) employing all powers conferred on the Sec-
9 retary of the Treasury under this Act.

10 (2) Each agency of the United States shall take all
11 appropriate measures within its authority to carry out the
12 provisions of this Act.

13 (3) Section 552(a)(3) of title 5, United States Code,
14 shall not apply to any record or information obtained or
15 created in the implementation of this Act.

16 (f) JUDICIAL REVIEW.—The determinations, identi-
17 fications, findings, and designations made pursuant to sec-
18 tion 4 and subsection (b) of this section shall not be sub-
19 ject to judicial review.

20 **SEC. 6. AUTHORITIES.**

21 (a) IN GENERAL.—To carry out the purposes of this
22 Act, the Secretary of the Treasury may, under such regu-
23 lations as he may prescribe, by means of instructions, li-
24 censes, or otherwise—

25 (1) investigate, regulate, or prohibit—

1 (A) any transactions in foreign exchange,
2 currency, or securities; and

3 (B) transfers of credit or payments be-
4 tween, by, through, or to any banking institu-
5 tion, to the extent that such transfers or pay-
6 ments involve any interests of any foreign coun-
7 try or a national thereof; and

8 (2) investigate, block during the pendency of an
9 investigation, regulate, direct and compel, nullify,
10 void, prevent, or prohibit any acquisition, holding,
11 withholding, use, transfer, withdrawal, transpor-
12 tation, placement into foreign or domestic commerce
13 of, or dealing in, or exercising any right, power, or
14 privilege with respect to, or transactions involving,
15 any property in which any foreign country or a na-
16 tional thereof has any interest,
17 by any person, or with respect to any property, subject
18 to the jurisdiction of the United States.

19 (b) RECORDKEEPING.—Pursuant to subsection (a),
20 the Secretary of the Treasury may require recordkeeping,
21 reporting, and production of documents to carry out the
22 purposes of this Act.

23 (c) DEFENSES.—

24 (1) Full and actual compliance with any regula-
25 tion, order, license, instruction, or direction issued

1 under this Act shall be a defense in any proceeding
2 alleging a violation of any of the provisions of this
3 Act.

4 (2) No person shall be held liable in any court
5 for or with respect to anything done or omitted in
6 good faith in connection with the administration of,
7 or pursuant to, and in reliance on this Act, or any
8 regulation, instruction, or direction issued under this
9 Act.

10 (d) RULEMAKING.—The Secretary of the Treasury
11 may issue such other regulations or orders, including regu-
12 lations prescribing recordkeeping, reporting, and produc-
13 tion of documents, definitions, licenses, instructions, or di-
14 rections, as may be necessary for the exercise of the au-
15 thorities granted by this Act.

16 **SEC. 7. ENFORCEMENT.**

17 (a) CRIMINAL PENALTIES.—(1) Whoever willfully
18 violates the provisions of this Act, or any license rule, or
19 regulation issued pursuant to this Act, or willfully neglects
20 or refuses to comply with any order of the President issued
21 under this Act shall be—

22 (A) imprisoned for not more than 10 years,

23 (B) fined in the amount provided in title 18,
24 United States Code, or, in the case of an entity,
25 fined not more than \$10,000,000,

1 or both.

2 (2) Any officer, director, or agent of any entity who
3 knowingly participates in a violation of the provisions of
4 this Act shall be imprisoned for not more than 30 years,
5 fined not more than \$5,000,000, or both.

6 (b) CIVIL PENALTIES.—A civil penalty not to exceed
7 \$1,000,000 may be imposed by the Secretary of the Treas-
8 ury on any person who violates any license, order, rule,
9 or regulation issued in compliance with the provisions of
10 this Act.

11 (c) JUDICIAL REVIEW OF CIVIL PENALTY.—Any pen-
12 alty imposed under subsection (b) shall be subject to judi-
13 cial review only to the extent provided in section 702 of
14 title 5, United States Code.

15 **SEC. 8. DEFINITIONS.**

16 As used in this Act:

17 (1) ENTITY.—The term “entity” means a part-
18 nership, joint venture, association, corporation, orga-
19 nization, network, group, or subgroup, or any form
20 of business collaboration.

21 (2) FOREIGN PERSON.—The term “foreign per-
22 son” means any citizen or national of a foreign state
23 or any entity not organized under the laws of the
24 United States, but does not include a foreign state.

1 (3) NARCOTICS TRAFFICKING.—The term “nar-
2 cotics trafficking” means any illicit activity to cul-
3 tivate, produce, manufacture, distribute, sell, fi-
4 nance, or transport narcotic drugs, controlled sub-
5 stances, or listed chemicals, or otherwise endeavor or
6 attempt to do so, or to assist, abet, conspire, or
7 collude with others to do so.

8 (4) NARCOTIC DRUG; CONTROLLED SUBSTANCE;
9 LISTED CHEMICAL.—The terms “narcotic drug”,
10 “controlled substance”, and “listed chemical” have
11 the meanings given those terms in section 102 of the
12 Controlled Substances Act (21 U.S.C. 802).

13 (5) PERSON.—The term “person” means an in-
14 dividual or entity.

15 (6) UNITED STATES PERSON.—The term
16 “United States person” means any United States
17 citizen or national, permanent resident alien, an en-
18 tity organized under the laws of the United States
19 (including its foreign branches), or any person with-
20 in the United States.

21 (7) SIGNIFICANT FOREIGN NARCOTICS TRAF-
22 FICKER.—The term “significant foreign narcotics
23 trafficker” means any foreign person that plays a
24 significant role in international narcotics trafficking,
25 that the President has determined to be appropriate

1 for sanctions pursuant to this Act, and that the
2 President has publicly identified in the report re-
3 quired under subsection (b) or (h)(1) of section 4.

4 **SEC. 9. EXCLUSION OF PERSONS WHO HAVE BENEFITED**
5 **FROM ILLICIT ACTIVITIES OF DRUG TRAF-**
6 **FICKERS.**

7 Section 212(a)(2)(C) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1182(a)(2)(C)) is amended to read as
9 follows:

10 “(C) CONTROLLED SUBSTANCE TRAF-
11 FICKERS.—Any alien who the consular officer
12 or the Attorney General knows or has reason to
13 believe—

14 “(i) is or has been an illicit trafficker
15 in any controlled substance or in any listed
16 chemical (as defined in section 102 of the
17 Controlled Substances Act (21 U.S.C.
18 802)), or is or has been a knowing aider,
19 abettor, assister, conspirator, or colluder
20 with others in the illicit trafficking in any
21 such controlled or listed substance or
22 chemical, or endeavored to do so; or

23 “(ii) is the spouse, son, or daughter of
24 an alien inadmissible under clause (i), has,
25 within the previous 5 years, obtained any

1 financial or other benefit from the illicit
2 activity of that alien, and knew or reason-
3 ably should have known that the financial
4 or other benefit was the product of such il-
5 licit activity,
6 is inadmissible.”.

7 **SEC. 10. EFFECTIVE DATE.**

8 This Act shall take effect on the date of enactment
9 of this Act.

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