

104TH CONGRESS  
2D SESSION

# H. R. 3023

To require the imposition of certain trade sanctions on countries which threaten the national security of the United States and the health and safety of United States citizens by failing to take effective action against the production of and trafficking in illicit narcotic, and psychotropic substances, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 6, 1996

Mr. SHAW (for himself, Mr. GILMAN, Mr. HAMILTON, and Mr. SOUDER) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Transportation and Infrastructure, and Rules, 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 require the imposition of certain trade sanctions on countries which threaten the national security of the United States and the health and safety of United States citizens by failing to take effective action against the production of and trafficking in illicit narcotic, and psychotropic substances, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. AMENDMENT TO TRADE ACT OF 1974.**

5 (a) IN GENERAL.—Section 802 of the Trade Act of  
6 1974 is amended to read as follows:

7 **“SEC. 802. TARIFF TREATMENT OF PRODUCTS OF**  
8 **NONCOOPERATIVE MAJOR ILLICIT DRUG**  
9 **PRODUCING OR DRUG TRANSIT COUNTRIES.**

10 “(a) ANNUAL REPORTS ON TRADE.—

11 “(1) IN GENERAL.—At the time that the report  
12 required by section 489(a) of the Foreign Assistance  
13 Act of 1961 is submitted each year, the United  
14 States Trade Representative, in consultation with  
15 the Secretary of State, shall report to the appro-  
16 priate congressional committees on the bilateral  
17 trade relationship between the United States and  
18 each major illicit drug producing country and each  
19 major drug transit country as determined under sec-  
20 tion 490(h) of that Act, including the volume of im-  
21 ports entering the United States from that country  
22 under any preferential trade program such as that  
23 under title V of this Act (relating to the Generalized  
24 System of Preferences), the Caribbean Basin Eco-  
25 nomic Recovery Act, or the Andean Trade Pref-

1       erence Act. The report may be submitted in classi-  
2       fied form, as appropriate.

3               “(2) REVIEW OF IMPACT OF IMPOSITION OF  
4       TRADE SANCTIONS ON MAJOR ILLICIT DRUG PRO-  
5       DUCING AND MAJOR DRUG TRANSIT COUNTRIES.—

6       The report required by paragraph (1) shall include  
7       an assessment, for each of the countries referred to  
8       in paragraph (1)—

9               “(A) by the United States Trade Rep-  
10       representative of the anticipated impact of taking  
11       any of the actions described in subsection (b)  
12       on the economy of the United States, and the  
13       economy of such country; and

14              “(B) by the Secretary of State of the an-  
15       ticipated impact of taking any of the actions de-  
16       scribed in subsection (b) on the country’s co-  
17       operation with the United States, or taking  
18       steps on its own, to achieve full compliance with  
19       the goals and objectives of the United Nations  
20       Convention Against Illicit Traffic in Narcotic  
21       Drugs and Psychotropic Substances.

22              “(3) RECOMMENDATION ON TRADE SANC-  
23       TIONS.—At the time that the report is submitted  
24       under paragraph (1), the Trade Representative, in  
25       consultation with the Secretary of State, shall rec-

1       commend to the President, on the basis of available  
2       information, which trade sanctions should be im-  
3       posed by the President under subsection (b)(2), and  
4       the products to which the sanctions should be ap-  
5       plied.

6               “(4) INFORMATION TO BE INCLUDED.—Each  
7       report under this subsection shall take into account  
8       information from sources available to the United  
9       States Trade Representative and the Secretary of  
10      State, and such information as may be submitted to  
11      the Trade Representative or the Secretary by inter-  
12      ested persons.

13             “(b) REQUIRED ACTIONS BY PRESIDENT.—

14               “(1) IN GENERAL.—Subject to subsection (c),  
15      for each major illicit drug producing or major drug  
16      transit country, the President shall, at the time of  
17      submission of the report required by section 489(a)  
18      of the Foreign Assistance Act of 1961, or at any  
19      time after the submission of such report, to the ex-  
20      tent considered necessary to achieve the purpose of  
21      this title—

22                   “(A) deny to any or all of the products of  
23                   that country nondiscriminatory treatment (most  
24                   favored nation treatment) or tariff treatment  
25                   under title V (relating to the Generalized Sys-

1           tem of Preferences), the Caribbean Basin Eco-  
2           nomic Recovery Act, the Andean Trade Pref-  
3           erence Act, or any other law providing pref-  
4           erential tariff treatment;

5           “(B) apply to any or all of the dutiable  
6           products of that country an additional duty at  
7           a rate not to exceed 50 percent ad valorem or  
8           the specific rate equivalent;

9           “(C) apply to one or more duty-free prod-  
10          ucts of that country a duty at a rate not to ex-  
11          ceed 50 percent ad valorem;

12          “(D) take the steps described in subsection  
13          (g)(1) or (2), or both, to curtail air transpor-  
14          tation between the United States and that  
15          country;

16          “(E) withdraw the personnel and resources  
17          of the United States from participation in any  
18          arrangement with that country for the pre-  
19          clearance of customs by visitors between the  
20          United States and that country;

21          “(F) deny trade benefits under any agree-  
22          ment between that country and the United  
23          States establishing a free trade area;

1           “(G) decline to negotiate with that country  
2           for purposes of establishing a free trade area;  
3           or

4           “(H) take any combination of the actions  
5           described in subparagraphs (A) through (G).

6           “(2) REQUIREMENT FOR IMPOSITION OF SANC-  
7           TIONS.—The President shall take at least one of the  
8           actions described in paragraph (1) for any major il-  
9           licit drug producing or major drug transit country  
10          that has been denied certification under subsection  
11          (c)(1)(A) for 2 or more consecutive years.

12          “(c) CERTIFICATION PROCEDURES.—

13                 “(1) WHAT MUST BE CERTIFIED.—Subject to  
14                 paragraph (4), subsection (b) shall not apply with  
15                 respect to a country if the President determines and  
16                 certifies to the Congress at the time of the submis-  
17                 sion of the report required by section 489(a) of the  
18                 Foreign Assistance Act of 1961, that—

19                         “(A) during the previous year the country  
20                         has cooperated fully with the United States, or  
21                         has taken adequate steps on its own, to achieve  
22                         full compliance with the goals and objectives es-  
23                         tablished by the United Nations Convention  
24                         Against Illicit Traffic in Narcotic Drugs and  
25                         Psychotropic Substances; or

1           “(B) for a country that would not other-  
2           wise qualify for certification under subpara-  
3           graph (A), the vital national interests of the  
4           United States require that subsection (b) not  
5           be applied with respect to that country.

6           “(2) CONSIDERATIONS REGARDING COOPERA-  
7           TION.—In making the determination described in  
8           paragraph (1)(A), the President shall consider the  
9           extent to which the country has—

10           “(A) met the goals and objectives of the  
11           United Nations Convention Against Illicit Traf-  
12           fic in Narcotic Drugs and Psychotropic Sub-  
13           stances, including action on such issues as illicit  
14           cultivation, production, distribution, sale, trans-  
15           port and financing, and money laundering,  
16           asset seizure, extradition, mutual legal assist-  
17           ance, law enforcement and transit cooperation,  
18           precursor chemical control, and demand reduc-  
19           tion;

20           “(B) accomplished the goals described in  
21           an applicable bilateral narcotics agreement with  
22           the United States or a multilateral agreement;  
23           and

24           “(C) taken legal and law enforcement  
25           measures to prevent and punish public corrup-

1           tion, especially by senior government officials,  
2           that facilitates the production, processing, or  
3           shipment of narcotic and psychotropic sub-  
4           stances, or that discourages the investigation or  
5           prosecution of such acts.

6           “(3) INFORMATION TO BE INCLUDED IN NA-  
7           TIONAL INTEREST CERTIFICATION.—If the President  
8           makes a certification with respect to a country pur-  
9           suant to paragraph (1)(B), the President shall in-  
10          clude in such certification—

11                   “(A) a full and complete description of the  
12                   vital national interests placed at risk if action  
13                   is taken pursuant to subsection (b) with respect  
14                   to that country; and

15                   “(B) a statement weighing the risk de-  
16                   scribed in subparagraph (A) against the risks  
17                   posed to the vital national interest of the Unit-  
18                   ed States by the failure of such country to co-  
19                   operate fully with the United States in combat-  
20                   ing narcotics or to take adequate steps to com-  
21                   bat narcotics on its own.

22           “(4) CONGRESSIONAL REVIEW.—Subsection (b)  
23           shall apply to a country without regard to paragraph  
24           (1) if, within 30 calendar days after the receipt of  
25           a certification submitted under this subsection, the



1 Congress enacts a joint resolution disapproving the  
2 determination of the President contained in such  
3 certification.

4 “(d) LICIT OPIUM PRODUCING COUNTRIES.—The  
5 President may make a certification under subsection  
6 (c)(1)(A) with respect to a major illicit drug producing  
7 country, or major drug transit country, that is a producer  
8 of licit opium only if the President determines that such  
9 country has taken adequate steps to prevent significant  
10 diversion of its licit cultivation and production into the il-  
11 licit market, maintains production and stockpiles at levels  
12 no higher than those consistent with licit market demand,  
13 and prevents illicit cultivation and production.

14 “(e) DURATION OF ACTION.—Any action taken by  
15 the President under subparagraph (A), (B), (C), or (F)  
16 of subsection (b)(1) shall apply to the products of a for-  
17 eign country that are entered, or withdrawn from ware-  
18 house for consumption, during the period that such action  
19 is in effect.

20 “(f) RECERTIFICATION.—Any action taken by the  
21 President under subsection (b) against a country shall re-  
22 main in effect until—

23 “(1) the President, at the time of submission of  
24 the report required by section 489(a) of the Foreign  
25 Assistance Act of 1961—

1           “(A) makes a certification under sub-  
2           section (c)(1)(A) with respect to that country,  
3           if the action was taken under subsection (b)(2),  
4           or

5           “(B) makes a certification under sub-  
6           section (c)(1) with respect to that country, in  
7           any other case,

8           and the Congress does not enact a joint resolution  
9           under subsection (c)(4) disapproving the determina-  
10          tion of the President contained in that certification;  
11          or

12          “(2) the President, at any other time, makes  
13          the certification described in subsection (c)(1)(B)  
14          with respect to that country, except that this para-  
15          graph applies only if either—

16                  “(A) the President also certifies that—

17                          “(i) that country has undergone a  
18                          fundamental change in the government, or

19                          “(ii) there has been a fundamental  
20                          change in the conditions that were the rea-  
21                          son—

22                          “(I) why the President had not  
23                          made a certification with respect to  
24                          that country under subsection  
25                          (c)(1)(A), or

1                   “(II) if he had made such a cer-  
2                   tification and the Congress enacted a  
3                   joint resolution disapproving the de-  
4                   termination contained in the certifi-  
5                   cation, why the Congress enacted that  
6                   joint resolution; or

7                   “(B) the Congress does not enact a joint  
8                   resolution disapproving the determination con-  
9                   tained in the certification under subsection  
10                  (c)(1)(B).

11                Any certification under subparagraph (A) of para-  
12                graph (2) shall discuss the justification for the cer-  
13                tification.

14                “(g) PRESIDENTIAL ACTION REGARDING AVIA-  
15                TION.—

16                “(1) SUSPENSION OF AIR SERVICE.—(A) The  
17                President is authorized to notify the government of  
18                a country against which is imposed the sanction de-  
19                scribed in subsection (b)(1)(D) of the President’s in-  
20                tention to suspend the authority of foreign air car-  
21                riers owned or controlled by the government or na-  
22                tionals of that country to engage in foreign air  
23                transportation to or from the United States.

24                “(B) Within 10 days after the date of notifica-  
25                tion of a government under subparagraph (A), the

1 Secretary of Transportation shall take all steps nec-  
2 essary to suspend at the earliest possible date the  
3 authority of any foreign air carrier owned or con-  
4 trolled, directly or indirectly, by the government or  
5 nationals of that country to engage in foreign air  
6 transportation to or from the United States, not-  
7 withstanding any agreement relating to air services.

8 “(C) The President may also direct the Sec-  
9 retary of Transportation to take such steps as may  
10 be necessary to suspend the authority of any air car-  
11 rier to engage in foreign air transportation between  
12 the United States and that country.

13 “(2) TERMINATION OF AIR SERVICE AGREE-  
14 MENT.—(A) The President may direct the Secretary  
15 of State to terminate any air service agreement be-  
16 tween the United States and a country against  
17 which a sanction described in subsection (b)(1)(D) is  
18 imposed in accordance with the provisions of that  
19 agreement.

20 “(B) Upon termination of an agreement under  
21 this paragraph, the Secretary of Transportation  
22 shall take such steps as may be necessary to revoke  
23 at the earliest possible date the right of any foreign  
24 air carrier owned or controlled, directly or indirectly,  
25 by the government or nationals of that country to

1 engage in foreign air transportation to or from the  
2 United States.

3 “(C) Upon termination of an agreement under  
4 this paragraph, the Secretary of Transportation may  
5 also revoke the authority of any air carrier to engage  
6 in foreign air transportation between the United  
7 States and that country.

8 “(3) EXCEPTIONS.—The Secretary of Trans-  
9 portation may provide for such exceptions from  
10 paragraphs (1) and (2) as the Secretary considers  
11 necessary to provide for emergencies in which the  
12 safety of an aircraft or its crew or passengers is  
13 threatened.

14 “(h) CONGRESSIONAL REVIEW PROCEDURES.—The  
15 procedures for congressional review contained in section  
16 490(g) of the Foreign Assistance Act of 1961 shall apply  
17 to the consideration of any joint resolution under this sec-  
18 tion.

19 “(i) NOTIFICATION.—(1) The President shall notify  
20 the appropriate congressional committees any time an ac-  
21 tion is taken under subsection (b) with respect to a major  
22 illicit drug producing or major drug transit country.

23 “(2) The President shall also notify the appropriate  
24 congressional committees any time an action taken under  
25 subsection (b) with respect to a major illicit drug produc-

1 ing or major drug transit country is modified or sus-  
2 pended.

3 “(j) DEFINITIONS.—(1) For purposes of this section,  
4 the terms ‘major illicit drug producing country’ and ‘major  
5 drug transit country’ have the meanings such terms have  
6 under section 481(e) of the Foreign Assistance Act of  
7 1961.

8 “(2) For purposes of this section, the terms ‘air  
9 transportation’, ‘air carrier’, ‘foreign air carrier’, and ‘for-  
10 eign air transportation’ have the meanings such terms  
11 have under section 101 of the Federal Aviation Act of  
12 1958 (49 U.S.C. App. 1301).

13 “(3) For purposes of this section, the term ‘appro-  
14 priate congressional committees’ means the Committee on  
15 Ways and Means and the Committee on International Re-  
16 lations of the House of Representatives and the Commit-  
17 tee on Finance and the Committee on Foreign Relations  
18 of the Senate.”.

19 (b) REPEAL OF OBSOLETE PROVISIONS.—Sections  
20 804 and 805 of the Trade Act of 1974 (19 U.S.C. 2493  
21 and 2494) are repealed.

22 **SEC. 3. DEFENSES OF THE UNITED STATES UNDER EXIST-**  
23 **ING TRADE AGREEMENTS.**

24 If proceedings are initiated by a country against the  
25 United States in the World Trade Organization or under

1 the North American Free Trade Agreement with respect  
2 to actions taken pursuant to title VIII of the Trade Act  
3 of 1974 (19 U.S.C. 2491 et seq.), the President shall in-  
4 voke all applicable defenses in such proceedings, including  
5 exceptions for measures necessary to protect the national  
6 security of the United States and to protect human, ani-  
7 mal, or plant life, or health.

○