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Presidential Determination No. 2002-07 of February 23, 2002

President's Report to Congress on Major Drug Transit or Major Illicit Drug Producing Countries under the FY 2002 Modification to the Annual Drug Certification Procedures

Memorandum for the Secretary of State

This report is submitted under section 591 of the Kenneth H. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (P.L. 107-115) (the "FY 2002 FOAA"). Pursuant to section 591 of the FY 2002 FOAA, I hereby identify the following countries as major drug-transit or major illicit drug producing 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. I previously identified these same countries as major drug-transit or major illicit drug producing countries on November 1, 2001, pursuant to section 490(h) of the Foreign Assistance Act of 1961, as amended (the "FAA").

Pursuant to section 591 of the FY 2002 FOAA, I hereby designate Afghanistan, Burma and Haiti as countries that failed demonstrably, during the previous 12 months, to adhere to their obligations under international counternarcotics agreements and to take the counternarcotics measures set forth in section 489(a) (1) of the FAA. I have attached a justification for each of the countries so designated, as required by section 591.

Pursuant to section 591(3), I hereby also determine that provision of United States assistance to Afghanistan and Haiti in FY 2002 under the FY 2002 FOAA is vital to the national interests of the United States.

You are hereby authorized and directed to transmit this report to the Congress and to publish it in the **Federal Register**.

GEORGE W. BUSH

THE WHITE HOUSE,
Washington, February 23, 2002.

STATEMENT OF EXPLANATION

Afghanistan

Afghanistan has failed demonstrably during the previous 12 months to make significant efforts to adhere to its obligations under international counternarcotics agreements and to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961, as amended. Provision of United States assistance to Afghanistan in Fiscal Year 2002 under the Kenneth M. Ludden Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (P.L. 107-115) is vital to the national interests of the United States.

After the Taliban began enforcing a ban on the cultivation of opium poppy in September 2000, the total production of opium in Afghanistan dropped

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by 94 percent, thereby reducing the global annual supply by nearly 75 percent. Although the Taliban successfully prevented cultivation, opium trafficking and heroin processing continued unabated through 2001, indicating the existence of large stockpiles of opium in the region used to control the opium market. At no point did the Taliban take any steps to adhere to its international obligations to interrupt opium trafficking or trade. In addition, cultivation and opium production increased in former Northern Alliance territory of Afghanistan. Drug traffickers in Afghanistan have switched allegiances from the Taliban to local commanders and warlords and available information indicates that poppy cultivation has resumed in several areas of Afghanistan since last fall.

Although the new Afghan Interim Authority led by Hamid Karzai has made a commitment to fight the production and trafficking of drugs in Afghanistan consistent with the Bonn Agreement of December 2001, it will take several months and significant assistance from the international community before the Interim Authority can take concrete measures to eradicate poppy and counter drug trafficking in Afghanistan. In the coming months, I will continue to monitor the Interim Authority's counternarcotics efforts closely. In the meantime, it is in the vital national interest of the United States to provide the full range of U.S. assistance to support the reconstruction of Afghanistan. Afghanistan poppy farmers must have viable alternatives to poppy cultivation that provide a sustainable income. The Afghan Interim Authority will need to establish rule of law and a basic law enforcement capacity at the local and regional level for its counternarcotics strategy to succeed. More broadly, although the United States' military campaign in Afghanistan has been successful, it is essential to ensure that Afghanistan does not again become a haven for terrorists. Stabilizing Afghanistan by providing various forms of assistance, including economic and military assistance in addition to counternarcotics, anti-crime, and humanitarian assistance is essential.

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Burma

Burma has failed demonstrably during the last 12 months to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961, as amended. With the ban on opium production in Afghanistan imposed by the Taliban in 2001, Burma returned to its position as the world's largest producer of illicit opium. Burma is also the primary source of methamphetamines trafficked throughout Southeast Asia and has done little to stop the production of an estimated 800 million tablets annually and trafficking of these drugs.

Burma has taken some useful counternarcotics measures in the last year, but these measures are too limited in duration and scope to constitute a substantial effort to meet the standards set forth under U.S. law.

Burma's 1993 Narcotic Drugs and Psychotropic Substances Law conforms to the 1988 UN Drug Convention and contains useful legal tools for addressing money laundering, seizing drug-related assets, and prosecuting drug conspiracy cases, but the Government of Burma (GOB) has been slow to implement the law. Burma has not enforced its existing money-laundering laws. In 2001, Burma was placed on the Financial Action Task

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Force's List of Non-Cooperating Countries and Territories. To its credit Burma responded by drafting new anti-money-laundering legislation, but its passage has been delayed until sometime in 2002.

In 2001, the GOB took stronger, more aggressive law-enforcement actions against some ethnic groups, notably the Kokang Chinese, engaged in drug production and trafficking and considerably improved counternarcotics cooperation with China and Thailand. In areas controlled by the United Wa State Army (the principal drug-producing and drug-trafficking organization in Burma) the government has been very cautious, only slowly expanding its administrative presence, but not yet attempting any aggressive law-enforcement operations comparable to those it has staged elsewhere. Although unwilling to risk confronting the Wa, a potent organization with a well-manned and well-trained military force, the GOB did take the modest steps of establishing a police presence in the Wa territories in 2001 and, in December 2001, opening its first military intelligence office in the Wa territories.

Seizures of opium in 2001 modestly exceeded the amounts seized last year, but seizures of heroin declined for the fourth straight year. Burmese law-enforcement agencies seized approximately 1,629 kilograms of raw opium and 98 kilograms of heroin during 2001. Heroin seized in 2000 totaled 159 kilograms compared to 273 kilograms in 1999 and 404 kilograms in 1998.

The GOB has not yet taken effective action against methamphetamine production and trafficking. Considering that an estimated 800 million methamphetamine tablets are produced in Burma each year, the amounts seized in each of the past two years represent only small fraction of the total produced and have no real effect on the overall scope of the problem. In 2001, Burma seized 32.4 million methamphetamine pills, compared to 26.7 million pills seized during 2000.

The GOB continued to refuse to transfer to U.S. custody drug lord Chang Qifu (Khun Sa), who resides in Rangoon, on grounds that he had not violated his 1996 surrender agreement. The 1988 UN Drug Convention obligates parties, including Burma, to prosecute such traffickers.

While recognizing that Burma has intensified its counternarcotics efforts in 2001, particularly during the second half of the year, those efforts must be sustained and expanded, if they are to have a significant impact on the overall scope of the production and trafficking problem. Burma has not yet curbed involvement in illicit narcotics perpetrated by the largest, most powerful and most important trafficking organization within its borders, the United Wa State Army.

On balance, the United States Government remains concerned that the GOB's efforts are not commensurate with the extent of Burma's illicit drug problem and believes that Burma has failed demonstrably to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act. Large-scale poppy cultivation and opium production continue and enormous quantities of methamphetamines are produced in and trafficked from Burma, having serious adverse effects on neighboring countries and throughout the region. Its toleration of money laundering, its unwillingness to implement fully its counterdrug laws, and its failure to transfer notorious trafficker Chang Qifu (Khun Sa) under indictment in the United States are all serious concerns.

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Although the GOB's actions in 2001, particularly in cooperation with China and Thailand, demonstrated a new commitment to effective counter-narcotics measures; the GOB has failed to enforce its narcotics laws, to eradicate systematically all forms of illicit drugs, including methamphetamines, and to address meaningfully the growing problem of drug abuse and HIV/AIDS.

The GOB must aggressively pursue drug traffickers, including the most prominent trafficking groups and organizations, most particularly the United Wa State Army. The GOB should continue and expand its cooperation with other countries in the region, particularly those most seriously affected by drugs trafficked from Burma. Although Burma's counternarcotics record in 2001 is noticeably improved over that of prior years, its efforts need to be sustained, expanded, and intensified over the next year.

STATEMENT OF EXPLANATION

Haiti

Haiti has failed demonstrably during the last 12 months to make substantial efforts to adhere to its obligations under international counternarcotics agreements and to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961, as amended. However, it is in the vital national interests of the United States to continue to provide assistance to the Government of Haiti (GOH) under the Kenneth M. Ludden, Foreign Operations, Export Financing, and Related Programs Act, 2002 (P.L. 107-115). Haiti remains a significant transshipment point for drugs, primarily cocaine, moving through the Caribbean from South America to the United States.

Although tactical cooperation by the GOH modestly improved, Haiti's overall counterdrug commitment remained weak, in part due to political instability and low levels of assistance. Such instability coupled with economic degradation has led to an increase in criminal and political violence and compromised internal security. Aristide has attempted to shore up his personal and political security by politicizing the police. Continued politicization of the Haitian National Police, in contravention to one of President Aristide's commitments to the United States Government, bodes ill for an effective counternarcotics effort.

Amid political and economic instability and in spite of limited resources, the GOH made some efforts to cooperate with counternarcotics initiatives. Due largely to the efforts of the Haitian Minister of Justice, the GOH made efforts to curb corruption in the judiciary, joined the Caribbean Financial Action Task Force (CFATF), and formed a Financial Intelligence Unit to combat money laundering. The GOH also, with the assistance of U.S. law enforcement, increased the amount of cocaine seized in 2001 over that seized in 2000. The GOH honored all United States Government requests for expulsion and extradition in 2001 by expelling two non-Haitian drug traffickers. The GOH cooperated with U.S. and Dominican Republic law enforcement by participating in a two-week counternarcotics operation and maintaining subsequent contact with U.S. and Dominican anti-drug units. Finally, the GOH honored the terms of a Bilateral Maritime Counternarcotics Interdiction Agreement pending formal official acceptance by the GOH since 1997.

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However, Haiti failed to take many other significant counterdrug actions. These actions can be categorized into the areas of anti-corruption, anti-money laundering, law enforcement, prosecution, and international cooperation: the GOH did not deposit an instrument of ratification of the OAS Inter-American Convention Against Corruption; introduce anti-corruption legislation; prosecute drug-related public (including police) corruption; put into force the anti-money laundering law passed in January 2001; enforce existing anti-money laundering guidelines issued by the Central Bank; require cross-border currency declarations and provide penalties for non-compliance; increase the number of arrests of major traffickers; increase the size of the antidrug squad (BLTS) to 75 officers; establish a permanent BLTS office outside Port au Prince; take steps to ensure the integrity of the BLTS; provide training to judges, prosecutors, and law enforcement officials; waive Haiti's primary right to exercise prosecutorial jurisdiction over non-Haitian flag vessels interdicted by the U.S. Coast Guard in Haitian waters; or put into force the 1997 U.S.-Haiti Bilateral Maritime Counter-narcotics Interdiction Agreement. The GOH did not sign a counterdrug Letter of Agreement with the United States Government.

Despite Haiti's demonstrable failure on counternarcotics issues, U.S. vital national interests require that U.S. assistance to Haiti continue. Because Haiti is the hemisphere's poorest country, there is need for continued assistance to programs that alleviate hunger, increase access to education, combat environmental degradation, fight the spread of HIV/AIDS, and foster the development of civil society. These programs create an environment conducive to building democracy and reducing illegal migration. They also address the root causes of poverty and hopelessness in Haiti, which are important contributing factors behind Haitian involvement in the drug trade. Additionally, suspension of assistance to Haiti would result in the further deterioration of Haitian institutions essential to combat increasing criminality.

Notice of February 26, 2002

Continuation of the National Emergency Relating to Cuba and of the Emergency Authority Relating to the Regulation of the Anchorage and Movement of Vessels

On March 1, 1996, by Proclamation 6867, President Clinton declared a national emergency to address the disturbance or threatened disturbance of international relations caused by the February 24, 1996, destruction by the Government of Cuba of two unarmed U.S.-registered civilian aircraft in international airspace north of Cuba. In July 1996 and on subsequent occasions, the Government of Cuba stated its intent to forcefully defend its sovereignty against any U.S.-registered vessels or aircraft that might enter Cuban territorial waters or airspace while involved in a flotilla and peaceful protest. Since these events, the Government of Cuba has not demonstrated that it will refrain from the future use of reckless and excessive force against U.S. vessels or aircraft that may engage in memorial activities or peaceful protest north of Cuba. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am con-