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Presidential Determination No. 2003–14 of January 30, 2003

Presidential Determination on Major Drug Transit or Major Illicit Drug Producing Countries for 2003

Memorandum for the Secretary of State

Pursuant to section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228) (FRAA), which was enacted on September 30, 2002, 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.

The Majors List applies by its terms to countries. The United States Government interprets the term broadly to include entities that exercise autonomy over actions or omissions that could lead to a decision to place them on the list and, subsequently, to determine their eligibility for certification. A country's presence on the Majors List is not necessarily an adverse reflection of its government's counternarcotics efforts or level of cooperation with the United States. Consistent with the statutory definition of a major drug transit or drug producing country set forth in section 481(e)(5) of the Foreign Assistance Act of 1961, as amended (FAA), one of the reasons that major drug transit or drug producing countries are placed on the list is the combination of geographical, commercial, and economic factors that allow drugs to transit or be produced despite the concerned government's most assiduous enforcement measures.

Pursuant to section 706(2)(A) of the FRAA, I hereby designate Burma, Guatemala, and Haiti as countries that have failed demonstrably during the previous 12 months to adhere to their obligations under international counternarcotics agreements and take the measures set forth in section 489(a)(1) of the FAA. Attached to this memorandum are justifications for each of the countries so designated, as required by section 706(2)(B).

I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that provision of United States assistance to Guatemala and Haiti in FY 2003 is vital to the national interests of the United States.

Additionally, the alarming increase in the quantity of illegal synthetic drugs entering the United States, especially ecstasy from Europe, is of particular concern. A significant amount of the ecstasy consumed in the United States is manufactured clandestinely in The Netherlands (in 2001, a total of 9.5 million ecstasy tablets were seized in the United States, and the Drug Enforcement Administration believes that the majority of tablets originated in The Netherlands). We are working closely with Dutch authorities to stop the production and export of ecstasy, which we both regard as a serious threat to our citizens. We expect Dutch authorities to move effectively and measurably in the coming year against the production and export of this drug, including dismantling labs and proceeding against trafficking organizations. Early in the year, we plan to discuss specific steps we can take together to reduce drug trafficking.

Although the United States enjoys an excellent level of bilateral cooperation with Canada, the United States Government is concerned that Canada

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is a primary source of pseudoephedrine and an increasing source of high potency marijuana, which are exported to the United States. Over the past few years there has been an alarming increase in the amount of pseudoephedrine diverted from Canadian sources to clandestine drug laboratories in the United States, where it is used to make methamphetamine. The Government of Canada, for the most part, has not regulated the sale and distribution of precursor chemicals. The regulations to restrict the availability of pseudoephedrine, which the Government of Canada has just promulgated, should be stronger. Notwithstanding Canada's inadequate control of illicit diversion of precursor chemicals, I commend Canadian law enforcement agencies, which continue to work energetically to support our joint law enforcement efforts.

Under section 706 of the FRAA, you are hereby authorized and directed to submit this memorandum to the Congress, and to publish it in the **Federal Register**.

GEORGE W. BUSH

THE WHITE HOUSE,
Washington, January 30, 2003.

Statement of Explanation

Burma

The United States has determined that Burma failed demonstrably to make sufficient efforts during the last 12 months to meet its obligations under international counternarcotics agreements and the counternarcotics requirements set forth in section 489(a)(1) of the Foreign Assistance Act of 1961, as amended.

Burma remains the world's number one producer and trafficker of methamphetamine and the world's second largest producer and trafficker of heroin. Judging from the situation in neighboring countries, production and trafficking of methamphetamine from Burma continues to be one of the most serious problems facing Southeast Asia. Drug gangs operate freely within Burma along its borders with China and Thailand, producing several hundred million methamphetamine tablets annually by using precursors imported from neighboring states.

Although Burma banned the import, sale, and use of 25 precursor chemicals and related substances used in the production of methamphetamine in 2002, Burma has yet to take effective measures against methamphetamine production and trafficking or the importation of precursor chemicals from neighboring states used in the production of methamphetamine. Hundreds of millions of methamphetamine tablets flooded the region, and seizures of methamphetamine went down significantly in 2002 (about 9 million tablets compared to 32 million in 2001), representing only a tiny fraction of the estimated production. In addition, the government destroyed a smaller number of methamphetamine and heroin labs in 2002 compared to the previous year.

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Burma has also yet to curb involvement in illicit narcotics by the largest, most powerful, and most important trafficking organization within its borders, the United Wa State Army (UWSA). Although the government claims it has increased pressure on the UWSA to end opium production, major UWSA traffickers continue to operate with apparent impunity and UWSA involvement in methamphetamine production and trafficking remains a serious concern.

While the United States gives Burma a failing grade due to the magnitude of the above issues, we do note some progress on several counternarcotics fronts. Although Burma remains the world's second largest producer of illicit opium, opium production in Burma declined 26 percent in the past year, seizures of heroin and opium increased, and the government has initiated several cases against accused money-launderers under new anti-money laundering laws.

The Government of Burma (GOB) also continued to cooperate with regional and international counternarcotics agencies and organizations, resulting in several cases against traffickers and their organizations in cooperation with the United States, Australia, Thailand, China, and others. Increased cooperation with China, in particular, resulted in the rendering of several narco-traffickers to China in 2002.

We urge the GOB to redouble efforts in those areas where it is making progress and to address those major gaps where it has made no serious efforts to date.

Guatemala

Despite improvements towards the end of the year, Guatemala 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. Guatemala remains a major transshipment point for drugs, primarily cocaine, moving from South America to the United States. However, the vital national interests of the United States require the United States to continue providing assistance to Guatemala under the Foreign Operations, Export Financing, and Related Programs Act, 2002 (P.L. 107-115).

During 2002, Guatemala's overall counterdrug commitment deteriorated. The Government of Guatemala's (GOG) counternarcotics efforts traditionally have been limited by a lack of resources for police, prosecutors, and judges. However, in 2002, a heightened level of corruption also impeded significant progress in the battle against narcotrafficking. Seizures of illegal narcotics and narcotics-related prosecutions in Guatemala were dramatically lower than in years past, despite evidence that the flow of illegal drugs had not diminished. Efforts to pass and implement anti-corruption and transparency legislation floundered. Few high-level figures were formally investigated or indicted, and the Anti-Narcotics Police was disbanded after several attempts at reform and the firing or reassignment of 75% of all personnel. The majority of Anti-Narcotics Prosecutors were also removed or transferred in the last year due to poor performance. During

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2002, police stole an amount of drugs estimated at double the amount officially seized, and were identified as responsible for drug-related extra-judicial executions of both narcotraffickers and civilians.

Toward the end of 2002, at the request of the United States the GOG took some positive counternarcotics steps. The GOG promulgated regulations to implement the modern money laundering legislation passed in 2001 (though there have been no convictions to date). A number of police officers were arrested and others removed from office in connection with a gun battle over a drug shipment in the town of Chocon. The GOG recently began regularly destroying newly confiscated drugs not needed for evidence, and, in December, destroyed a modest amount of drugs stored from older cases.

Despite Guatemala's demonstrable failure on counternarcotics efforts, U.S. vital national interests require that U.S. assistance to Guatemala continue. Social and political problems underlying the country's 36-year civil conflict remain, and many Peace Accord commitments have not been met. There is a need for continued assistance to programs that diversify the rural economy, increase access to education and medical services, strengthen judicial and human rights institutions, foster the development of civil society, and address environmental concerns. These programs create an environment conducive to building democracy and reducing illegal migration. They also address social injustice, poverty, and distrust of civil authority in Guatemala, which are contributing factors behind Guatemalan involvement in the drug trade. The upcoming Central American Free Trade Agreement negotiations will also require significant U.S. involvement and assistance in projects linked to further economic liberalization. Additionally, suspension of assistance to Guatemala would result in the further deterioration of Guatemalan institutions essential to combating the ever-growing influence of organized crime in Guatemala.

Haiti

Haiti failed demonstrably during the last 12 months to make substantial efforts to adhere to its obligations under international counternarcotics agreements and take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961, as amended. Haiti remains a significant transshipment point for drugs, primarily cocaine, moving through the Caribbean from South America to the United States. However, the vital national interests of the United States require the United States to continue to provide assistance to Haiti under the Foreign Operations, Export, Financing, and Related Programs Act, 2002 (P.L. 107-115) Haiti's overall counterdrug commitment has 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. Corruption is rife; including reported police involvement in kidnapping-for-ransom, car theft, and coercion of junior police officers either to assist in or to ignore drug trafficking activities. President Aristide has attempted to shore up his personal and political security by politicizing the Haitian National Police (HNP). This, in contravention to one of President Aristide's commitments to the United States Government, bodes ill for an effective counternarcotics effort.

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With two exceptions (putting into force a 1997 U.S.-Haiti bilateral maritime counternarcotics interdiction agreement and establishing a Financial Intelligence Unit), the Government of Haiti (GOH) has taken no action on its own initiative in the past year either to cooperate with the United States to interdict the flow of drugs destined for the United States or to honor its commitments as a party to the 1988 U.N. Drug Convention.

Other than signing a bilateral counternarcotics Letter of Agreement, permitting the polygraph examination of 40 HNP anti-drug unit officers, and removing those with questionable results, Haiti failed to take significant counterdrug actions requested by the United States Government. In summary, the GOH did not:

- 1) Deposit an instrument of ratification of the OAS Inter-American Convention Against Corruption;
- 2) introduce anti-corruption legislation;
- 3) prosecute drug-related public (including police) corruption;
- 4) implement fully the anti-money laundering law passed in January 2001;
- 5) enforce existing anti-money laundering guidelines issued by the Central Bank;
- 6) require cross-border currency declarations and provide penalties for noncompliance;
- 7) increase the number of arrests of major traffickers;
- 8) establish a permanent BLTS (French acronym for the HNP anti-drug unit) office outside Port-au-Prince; or
- 9) provide training to judges, prosecutors, and law enforcement officials.

Despite Haiti's demonstrable failure on counternarcotics issues, U.S. vital national interests require that U.S. assistance to Haiti continue. Haiti is the hemisphere's poorest country. There is a continued need for assistance to programs that increase access to education, combat environmental degradation, fight the spread of HIV/AIDS, and foster the creation of legitimate business and employment opportunities. These programs can create an atmosphere conducive to building democracy and reducing illegal migration. They will also address root causes of poverty and hopelessness in Haiti, contributing factors behind Haitian involvement in the international drug trade. Suspension of assistance to Haiti would result in the further deterioration of Haitian institutions. Additionally, suspension would hamper U.S. efforts to ensure implementation of OAS Resolution 822, which commits Haiti to hold legislative elections in 2003.