SEC. 1013. REVISIONS TO DEPARTMENT OF DEFENSE AUTHORITY TO PROVIDE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF OTHER AGENCIES.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 374 note) is amended by striking "During fiscal years 2002 through 2014" and inserting "During fiscal years 2002 through 2015".

(b) CLARIFICATION OF AUTHORITY TO PROVIDE CERTAIN NONLETHAL EQUIPMENT OR SERVICES.—Subsection (b)(4) of such section is amended by inserting before the period at the end the following: ", including the provision of nonlethal equipment or services necessary for the operation of such bases or facilities, other than any equipment specifically identified in section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public 105-85; 111 Stat. 1881)".

(c) CLARIFICATION OF AUTHORITY TO PROVIDE TRAINING SUPPORT.—Subsection (b)(5) of such section is amended by inserting ", including training support for the planning and evaluation phases of operations," after "training".

SEC. 1014. EXTENSION AND EXPANSION OF AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF CERTAIN FOREIGN GOVERNMENTS.

(a) EXTENSION OF AUTHORITY.—Subsection (a)(2) of section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1881), as most recently amended by section 1006 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1557), is further amended by striking "2013" and inserting "2015".

(b) MAXIMUM AMOUNT OF SUPPORT.—Subsection (e)(2) of such section, as so amended, is further amended by striking "2013" and inserting "2015".

(c) ADDITIONAL GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—Subsection (b) of such section, as so amended, is further amended by adding at the end the following new paragraphs:

"(36) The Government of Bangladesh.

"(37) The Government of Yemen.".

Section-by-Section Analysis

This proposal consists of two proposed sections (1013 and 1014) relating to counter-drug activities of the Department of Defense (DoD).

SEC. 1013: REVISIONS TO DEPARTMENT OF DEFENSE AUTHORITY TO PROVIDE SUPPORT FOR COUNTER-DRUG ACTIVITIES OF DOMESTIC AND FOREIGN LAW ENFORCEMENT AGENCIES

Subsection (a) of section 1013 of this proposal would extend by one year, through fiscal year (FY) 2015, the authorities provided in section 1004 of the National Defense Authorization Act (NDAA) for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1629; 10 U.S.C. 374 note) (referred to as "Section 1004 authority"). For two decades, Section 1004 has provided the backbone of Department of Defense (DoD) counternarcotics support to state, local, Federal, and foreign law enforcement partners. At the end of FY 2011, Section 1004 authority was inadvertently allowed to lapse because the FY 2012 NDAA was not enacted prior to the end of the fiscal year and a temporary extension was not included in the continuing resolution. This scenario, which is likely to play out repeatedly in years to come, has resulted in significant disruption in critical DoD counternarcotics support to Afghanistan, Mexico, Colombia and domestic law enforcement along the Southwest border. A one-year extension of authority would prevent this scenario from happening until the end of FY 2015, help facilitate long-term planning and budgeting, and would solidify the Department's critical role in confronting drug trafficking and other forms of organized crime that pose a national security threat to the United States, as outlined in the Strategy to Combat Transnational Organized Crime.

Subsections (b) through (c) of this proposal would make the following changes to the authority currently under section 1004 of the NDAA for FY 1991:

- Subsection (b) would clarify that support provided through the operation of bases of operations and training may include the provision of nonlethal equipment or supplies not within the scope of section 1033 of the NDAA for FY 1998.
- Subsection (c) would clarify that subsection (b)(5) specifically authorizes the provision of "training support for the planning and evaluation phases of operations".

Training provided under Section 1004 has proven extremely valuable to state and local law enforcement and in building the capacity of foreign partners such as Colombia, Mexico, and Afghanistan. Under current Section 1004 authority, "training" may include traditional classroom training, exercises and simulations, as well as after-action critique and performance review.

Increasingly, DoD is supporting training and mentoring of counternarcotics units tasked with operations against well-armed, well-equipped, and sophisticated transnational criminal networks. While this training is extremely valuable, its effectiveness could be greatly enhanced if training be conducted during the planning and evaluation of real-world scenarios. The addition of the words "training support for the planning and evaluation phases of operations" to subsection (b)(6) would provide greater legal clarity to authorize training without changing standing DoD policy that DoD personnel will not directly participate in searches, seizures, arrests or similar activity unless such personnel are otherwise authorized by law. Except in presidentially declared combat zones, DoD personnel will not accompany United States drug law enforcement agents or host nation law enforcement and security forces on actual counternarcotics field operations.

SEC. 1014. EXPANSION OF AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF CERTAIN FOREIGN GOVERNMENTS.

Section 1014 of this proposal would extend by two years, through FY 2015, the authorities provided in section 1033 of the National Defense Authorization Act for Fiscal Year 1998. This proposal also would make several important changes to section 1033. The proposal would add two additional nations, requested and justified by U.S. Pacific Command and U.S. Central Command, to the list of countries eligible for support. These countries are situated either along key drug smuggling routes or are facing an increasing threat of narcoterrorism. Enhanced interdiction capabilities for the countries listed in this legislation are critical to U.S. efforts to stem the flow of illicit drugs and to reduce the threat of narcoterrorism to struggling democracies. All DoD international counternarcotics support, including section 1033 support, is approved by the Ambassador and U.S. Embassy Country Team, and is coordinated with the State Department's Bureau for International Narcotics and Law Enforcement Affairs.

Budget Implications: There are no additional resources required to implement this authority. All costs will be absorbed within the annual appropriations of the Counternarcotics Central Transfer Account.

Funds used under this authority will be taken from the Drug Interdiction and Counter-Drug Activities, Defense appropriation.

Section 1013, subsection (a):

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2013	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Central Transfer	$366.1	$365.6	$378.3	$378.1	$375.8	Drug Interdiction and	01/03	0105D

Account						Counter Drug Activities, Defense		
Total	$366.1	$365.6	$378.3	$378.1	$375.8			

Section 1013, subsections (b)-(c):

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2013	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Central Transfer Account	$65	$37	$37	$37	$37	Drug Interdiction and Counter Drug Activities, Defense	01	0105D
Total	$65	$37	$37	$37	$37			

Section 1014: Funds used under this authority would be taken from the Drug Interdiction and Counter-Drug Activities, Defense appropriation.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2013	**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Central Transfer Account	100	100	100	100	100	Drug Interdiction and Counter Drug Activities, Defense	01	0105D
Total	100	100	100	100	100			

Changes to Existing Law: This proposal would make the following changes to existing law:

Section 1013 of this proposal would amend section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1629; 10 U.S.C. 374 note), as most recently amended by section 1005 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1556).

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991
(Public Law 101–510; 10 U.S.C. 374 note)

SEC. 1004. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) SUPPORT TO OTHER AGENCIES.—During fiscal years 2002 through ~~2014~~ 2015, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, tribal, or foreign law enforcement agency for any of the purposes set forth in subsection (b if such support is requested—

(1) by the official who has responsibility for the counterdrug activities of the department or agency of the Federal Government, in the case of support for other

departments or agencies of the Federal Government;

(2) by the appropriate official of a State, or local, or tribal government, in the case of support for State, or local, or tribal law enforcement agencies; or

(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

(b) TYPES OF SUPPORT.—The purposes for which the Secretary of Defense may provide support under subsection (a) are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local, or tribal government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of—

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

(4) The establishment (including an unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities of the Department of Defense or any Federal, State, or local, or tribal law enforcement agency within or outside the United States or for the purpose of facilitating counter-drug activities of a foreign law enforcement agency outside the United States<u>, including the provision of nonlethal equipment or services necessary for the operation of such bases or facilities, other than any equipment specifically identified in section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public 105-85; 111 Stat. 1881)</u>.

(5) Counter-drug related training<u>, including training support for the planning and evaluation phases of operations,</u> of law enforcement personnel of the Federal Government, of State, and local, and tribal governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6) The detection, monitoring, and communication of the movement of—

(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(7) Construction of roads and fences and installation of lighting to block drug

smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(9) The provision of linguist and intelligence analysis services.

(10) Aerial and ground reconnaissance.

(c) LIMITATION ON COUNTER-DRUG REQUIREMENTS.—The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.

(d) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

(e) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(f) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(g) RELATIONSHIP TO OTHER LAWS.—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (e), section 376 of title 10, United States Code.

(h) CONGRESSIONAL NOTIFICATION OF FACILITIES PROJECTS.—(1) When a decision is made to carry out a military construction project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees written notice of the decision, including the justification for the project and the estimated cost of the project. The project may be commenced only after the end of the 21-day period beginning on the date on which the written notice is received by Congress.

(2) Paragraph (1) applies to an unspecified minor military construction project that—

(A) is intended for the construction, modification, or repair of any facility for the purposes set forth in subsection (b)(4); and

(B) has an estimated cost of more than $500,000.

(3) This subsection may not be construed as an authorization for the use of funds for any military construction project that would exceed the approved cost limitations of an unspecified minor military construction project under section 2805(a)(2) of title 10, United States Code.

(i) DEFINITIONS RELATING TO TRIBAL GOVERNMENTS.—In this section:

(1) The term “Indian tribe” means a federally recognized Indian tribe.

(2) The term "tribal government" means the governing body of an Indian tribe, the status of whose land is "Indian country" as defined in section 1151 of title 18, United States Code, or held in trust by the United States for the benefit of the Indian tribe.

(3) The term "tribal law enforcement agency" means the law enforcement agency of a tribal government.

Section 1014 of this proposal would make the following changes to section 1033 of the National Defense Authorization Act for Fiscal Year 1998 **[Public Law No. 105-85, Nov. 18, 1997, *amended by* §1021, Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398; §1021, NDAA for FY 2004, Pub. L. No. 108-136; §1022, John Warner NDAA for FY 2007, Pub. L. No. 109-364; §1022, NDAA for FY 2008, Pub. L. No. 110-181; §1024 of the Duncan Hunter NDAA for FY 2009, Pub. L. No. 110-417; §1014 of the NDAA for FY 2010, Pub. L. 111-84; §1014 of the Ike Skelton NDAA for FY 2011, Pub. L. No. 111-383, and §1006 of the NDAA for FY 2012, Pub. L. 112-81]:**

SEC. 1033. AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES OF OTHER COUNTRIES.

(a) AUTHORITY TO PROVIDE SUPPORT.—(1) Subject to subsection (f), the Secretary of Defense may provide any of the foreign governments named in subsection (b) with the support described in subsection (c) for the counter-drug activities of that government. In providing support to a government under this section, the Secretary of Defense shall consult with the Secretary of State. The support provided under the authority of this section shall be in addition to support provided to the governments under any other provision of law.

(2) The authority to provide support to a government under this section expires September 30, ~~2013~~ 2015.

(b) GOVERNMENTS ELIGIBLE TO RECEIVE SUPPORT.—The foreign governments eligible to receive counter-drug support under this section are as follows:

(1) The Government of Peru.
(2) The Government of Colombia.
(3) The Government of Afghanistan.
(4) The Government of Bolivia.
(5) The Government of Ecuador.
(6) The Government of Pakistan.
(7) The Government of Tajikistan.
(8) The Government of Turkmenistan.
(9) The Government of Uzbekistan.
(10) The Government of Azerbaijan.
(11) The Government of Kazakhstan.
(12) The Government of Kyrgyzstan.
(13) The Government of Armenia.
(14) The Government of Guatemala.
(15) The Government of Belize.
(16) The Government of Panama.
(17) The Government of Mexico.

(18) The Government of the Dominican Republic.
(19) The Government of Guinea-Bissau.
(20) The Government of Senegal.
(21) The Government of El Salvador.
(22) The Government of Honduras.
(23) Government of Benin.
(24) Government of Cape Verde.
(25) Government of The Gambia.
(26) Government of Ghana.
(27) Government of Guinea.
(28) Government of Ivory Coast.
(29) Government of Jamaica.
(30) Government of Liberia.
(31) Government of Mauritania.
(32) Government of Nicaragua.
(33) Government of Nigeria.
(34) Government of Sierra Leone.
(35) Government of Togo.
(36) The Government of Bangladesh.
(37) The Government of Yemen.

(c) TYPES OF SUPPORT.—The authority under subsection (a) is limited to the provision of the following types of support to a government named in subsection (b):

(1) The types of support specified in paragraphs (1), (2), and (3) of section 1031(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2637).

(2) The transfer of patrol boats, vehicles, and, subject to section 484(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c(a)), aircraft.

(3) The maintenance and repair or upgrade of equipment of the government that is used for counter-drug activities.

(4) The transfer of detection, interception, monitoring and testing equipment.

(5) For the Government of Afghanistan only, individual and crew served weapons of 50 caliber or less and ammunition for such weapons for counter-narcotics security forces.

(d) APPLICABILITY OF OTHER SUPPORT AUTHORITIES.—Except as otherwise provided in this section, the provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 374 note) shall apply to the provision of support under this section.

(e) FISCAL YEAR 1998 FUNDING; LIMITATION ON OBLIGATIONS.—(1) Of the amount authorized to be appropriated under section 301(20) for drug interdiction and counter-drug activities, an amount not to exceed $9,000,000 shall be available for the provision of support under this section.

(2) Amounts made available to carry out this section shall remain available until expended, except that the total amount obligated and expended under this section may not exceed $20,000,000 during any of the fiscal years 1999 through 2003, $40,000,000 during any of the fiscal years 2004 through 2006, $60,000,000 during either of the fiscal years 2007 and 2008, or $100,000,000 during any of the fiscal years 2009 through ~~2013~~ 2015.