SEC. 1010. REQUIREMENT FOR CERTIFICATION ONCE EVERY THREE YEARS RATHER THAN ANNUALLY FOR AUTHORITY TO PROVIDE CERTAIN SUPPORT FOR COUNTER-DRUG ACTIVITIES TO SPECIFIED FOREIGN COUNTRIES.

Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1629), as most recently amended by section 1014 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4347), is amended—

(1) in subsection (f)(1), by striking "the written certification described in subsection (g) for that fiscal year." and inserting the following: "a written certification described in subsection (g) applicable to that fiscal year. The first such certification with respect to any such government may apply only to a period of one fiscal year. Subsequent certifications with respect to any such government may apply to a period of not to exceed three fiscal years."; and

(2) in subsection (g), in the matter preceding paragraph (1)—

(A) by striking "The written" and inserting "A written"; and

(B) by striking "for a fiscal year" and all that follows through the colon and inserting "with respect to a government to receive support under this section for any period of time is a certification of each of the following with respect to that government:".

Section-by-Section Analysis

This proposal would amend section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1629), as amended, to provide any of the foreign governments named in the section with types of support as framed by the authority. In general, these are items that can be transferred to the partner government for use in the counter-drug

activities of that government. As a provision of this authority, the partner government, applicable US Embassy, and Department of Defense have to provide written certifications each year to be eligible to receive the support. In the U.S. Central Command area of responsibility, only Afghanistan, Pakistan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan have been approved by Congress for Section 1033 support. This proposed change would require certifications only every three years vice every year. US Embassies and their associated Offices of Defense Cooperation in Central Asia are small with limited personnel resources. Annual certification poses a significant burden on these staffs. Additionally, this authority requires Embassy staff personnel to be able to observe and monitor the implementation of the support provided. These are significant efforts. We agree that monitoring the support provided must be continuous, and reducing the requirement for annual certification provides Embassy staff personnel more flexibility to monitor the provisions of this authority. Additionally, annual certification creates an expectation on the part of the partner government that they will receive support regardless if funding has been appropriated for that purpose.

There is a worldwide cap on NDAA Section 1033 funding. In Fiscal Year (FY) 2008 the cap was $60,000,000. Beginning in FY 2009 the funding cap was set at $75,000,000 per year. According to the Deputy Assistant Secretary of Defense for Counternarcotics and Global Threats (DASD/CN&GT), the DoD executed $50,851,000 (85 percent) of the $60,000,000 NDAA Section 1033 appropriation for FY2008. In FY2009 and 2010, the DoD executed $29,244,000 (39 percent) and $70,596,000 (94 percent), respectively, of the $75,000,000 appropriation. The point is there are 22 nations worldwide eligible for NDAA Section 1033 funding, yet the DoD cannot execute the full annual authorization. This is a difficult authority. Reducing the requirement for annual certification to a three-year certification cycle would permit the DoD to obtain partner nation buy-in for the support, work through all the issues associated with certification, create meaningful monitoring procedures, develop requirements and a budget, and then execute the program. Until then, we continue to build partner nation expectations without adequate follow through, damaging relationships that are critical to our success in Afghanistan.

In the U.S. Central Command area of responsibility there is a great need to improve the counterdrug capacity of Afghanistan and its neighbors. Profits from the illicit Afghan drug trade fuel insurgency and corrupt government officials at all levels. Addressing this problem is a key security concern. Defense counternarcotics funding is a critical element in improving the ability of Afghanistan and other regional partners to combat trans-national criminal organizations and major drug trafficking networks. There is a great need for improving the capacity of our counterdrug partners throughout the region by providing equipment and support for these activities. This requested change reduces the administrative burden on small staffs, permits more flexibility for oversight of support transferred under this authority, and tempers expectations of U.S. support to the respective governments.

Budget Implications: None. This change only affects the administrative requirements of the NDAA Section 1033 authority. Funding levels in the Department's Central Transfer Account would not be affected.

Changes to Existing Law: This proposal would amend section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1629), as amended, as follows:

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, 2012.

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

(1) ***

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(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) ***

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(f) CONDITION ON PROVISION OF SUPPORT.—

(1) The Secretary of Defense may not obligate or expend funds during a fiscal year to provide support under this section to a government named in subsection (b) until the end of the 15-day period beginning on the date on which the Secretary submits to the congressional committees ~~the~~ a written certification described in subsection (g) ~~for that fiscal year~~ applicable to that fiscal year. The first such certification with respect to any such government may apply only to a period of one fiscal year. Subsequent certifications with respect to any such government may apply to a period of not to exceed three fiscal years.

(2) In the case of funds appropriated and available for support under this section to a government named in subsection (b), the obligation or expenditure of funds under this section to provide support to that government shall also be subject to the condition that—

(A) the Secretary submit to the congressional committees the counter-drug plan described in subsection (h); and

(B) a period of 60 days expires after the date on which the report is submitted.

(3) In the case of subsequent fiscal years in which support is to be provided under this section to a government named in subsection (b), the obligation or expenditure of

funds under this section to provide support to that government shall also be subject to the condition that the Secretary submit to the congressional committees any revision of the counterdrug plan described in subsection (h) applicable to that government.

(4) For purposes of this subsection, the term ``congressional committees'' means the following:

(A) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

(B) The Committee on National Security and the Committee on Foreign Affairs of the House of Representatives.

(g) REQUIRED CERTIFICATION.—~~The~~ A written certification required by subsection (f)(1) ~~for a fiscal year is a certification of the following with respect to each government to receive support under this section~~ with respect to a government to receive support under this section for any period of time is a certification of each of the following with respect to that government:

(1) That the provision of the support to the government will not adversely affect the military preparedness of the United States Armed Forces.

(2) ***

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