(b) Section 487(a) directs the President to "take all reasonable steps" to ensure that assistance under the Foreign Assistance Act of 1961 (FAA) and the Arms Export Control Act (AECA) "is not provided to or through any individual or entity that the President knows or has reason to believe":

(1) has been "convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating [to] narcotic or psychotropic drugs or other controlled substances"; or

(2) "is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance."

# §140.2 Authorities.

Authority to implement FAA Section 487 was delegated by the President to the Secretary of State by E.O. 12163, as amended, and further delegated by the Secretary to the Assistant Secretary for International Narcotics Matters by Delegation of Authority No. 145, dated Feb. 4, 1980 (45 FR 11655), as amended.

# §140.3 Definitions.

The following definitions shall apply for purposes of these regulations:

(a) Country Narcotics Coordinator. The individual assigned by the chief of mission in each foreign country to coordinate United States government policies and activities within a country related to counternarcotics efforts. As determined by the State Department's Bureau of International Narcotics Matters, these responsibilities may, as necessary, be performed by another person.

(b) Drug trafficking. Any activity undertaken illicitly to cultivate, produce, manufacture, distribute, sell, finance or transport, or otherwise assist, abet, conspire, or collude with others in illicit activities relating to, narcotic or psychotropic drugs, precursor chemicals, or other controlled substances, including drug-related money laundering.

(c) Money laundering. The process whereby proceeds of criminal activity, are transported, transferred, transformed, converted, or intermingled with legally acquired funds, for the purpose of concealing or disguising the true nature, source, disposition, movement, or ownership of those proceeds. The goal of money laundering is to make funds derived from or associated with illicit activity appear legally acquired. (d) Narcotics offense. A violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating to narcotic or psychotropic drugs or other controlled substances.

(e) Covered country. A country that has been determined by the President to be either a "major illicit drug producing" or "major drug-transit" country under Chapter 8 of Part I of the FAA. The list of covered countries is maintained by the State Department's Bureau of International Narcotics matters.

(f) Covered assistance. Any assistance provided by an agency of the United States government under the FAA or AECA, except that it does *not* include:

(1) Assistance that by operation of the law is not subject to FAA Section 487, including:

(i) Disaster relief and rehabilitation provided under Chapter 9 of Part I of the FAA; and

(ii) Assistance provided to small farmers when part of a communitybased alternative development program under Part I or Chapter 4 of Part II of the FAA;

(2) Assistance in an amount less than \$100,000, except that the procedures in \$140.8 for recipients of scholarships, fellowships, and participant training shall apply regardless of amount. However, assistance shall be deemed covered assistance regardless of amount if the agency has reasonable grounds to suspect that a covered individual or entity may be or may have been involved in drug trafficking; or

(3) Assessed contributions to an international organization.

## Subpart B—Applicability

#### §140.4 Applicability.

(a) Except as otherwise provided herein or as otherwise determined by the Secretary of State or the Secretary's designee, the procedures prescribed by these regulations apply to any "covered individual or entity," i.e., any individual or entity, including any foreign government entity and any U.S. or foreign non-governmental entity, that is:

(1) (i) Receiving or providing covered assistance under a direct or first-tier grant, loan, guarantee, cooperative agreement, contract, or other direct agreement with an agency of the United States; or

(ii) Receiving covered assistance in the form of a scholarship, fellowship, or participant training, except as provided in § 140.7(c); and

(2) Located in or providing assistance within a covered country.

Examples:

(1) Under a \$500,000 project grant agreement with the Agency for International Development providing covered assistance, Government A enters into a \$150,000 contract with Corporation X. Government A is a covered entity. However, Corporation X is *not* a covered entity because the contract is not a direct contract with an agency of the United States.

(2) Under a \$1,000,000 grant from the Department of State providing covered assistance, Corporation B makes a \$120,000 subgrant to University Y for the training of 12 individuals. Corporation B is a covered entity and the 12 individuals receiving participant training are covered individuals. University Y is *not* a covered entity.

(3) University C receives a \$1 million regional assistance research project grant from the Agency for International Development, but only \$80,000 is provided for research in covered countries. University C is not a covered entity. (However, if \$100,000 or more were provided for research in a covered country or countries, then University C would be a covered entity.)

(b) For purposes of § 140.4(a), where a government agency providing covered assistance specifically designates a recipient of such assistance, the recipient shall be deemed a covered individual or entity.

(c) Unless otherwise determined by the Secretary of State or the Secretary's designee, these regulations do not apply to assistance to or through individuals and entities in non-covered countries. However, an affected agency shall apply these regulations if the agency has reasonable grounds to suspect that an individual or entity located in or providing covered assistance in a noncovered country may be or may have been involved in drug trafficking or may have been convicted of a narcotics offense.

# Subpart C—Enforcement

### §140.5 Overview.

This subpart sets forth the enforcement procedures applicable pursuant to §140.4 to the various types of covered individuals and entities with respect to covered assistance. Section 140.6 establishes the procedures applicable to foreign government entities, including any such entity that is covered by the definition of a "foreign state" set forth in the Foreign Sovereign Immunities Act, 28 U.S.C. Sec. 1603(a). Section 140.7 establishes the procedures applicable to multilateral institutions and international organizations. Section 140.8 establishes the procedures applicable to recipients of scholarships and fellowships and participant trainees. Section 140.9 establishes the procedures applicable to nongovernmental entities. Section 140.10